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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable MARK L. PRYOR, a Senator from the State of Arkansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, sustainer of humanity, we thank You for commanding light to shine out of darkness, for stretching out the heavens, and laying the foundation of the Earth. We praise You for calling us to be Your people, for revealing Your purposes and Your sacred word, and for dealing patiently with our pride and disobedience.

Bless the Members of this body and all who support them. Give them such trust in You that, holding onto Your word, they may be strong in this and every time of need. Impart to them, Lord, grace to permit You to order their steps. Give them the gift of Your Holy Spirit that they may be faithful servants and stewards of Your will.

We pray in the Name of our Lord and Savior. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK L. PRYOR led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 12, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK L. PRYOR, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. PRYOR thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following the remarks of myself and Senator MCCONNELL, the Senate will resume consideration of the motion to proceed to S. 3101, the Medicare Improvements for Patients and Providers Act, with the time until 3 p.m. equally divided and controlled between the two leaders or their designees. Senators GRASSLEY, BAUCUS, MCCONNELL, and REID of Nevada will control the final 40 minutes, with 10 minutes each under their control. The order of speakers will be as I have mentioned. At 3 p.m., the Senate will proceed to vote on the motion to invoke cloture on the motion to proceed to the bill.

MEASURE PLACED ON CALENDAR—S. 3118

Mr. REID. Mr. President, S. 3118 is at the desk and due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will state the bill for the second time.

The legislative clerk read as follows:

A bill (S. 3118) to amend titles XVIII and XIX of the Social Security Act to preserve beneficiary access to care by preventing a reduction in the Medicare physician fee schedule, to improve the quality of care by advancing value based purchasing, electronic health records, and electronic prescribing, and to maintain and improve access to care in rural areas, and for other purposes.

Mr. REID. Mr. President, I object to any further proceedings at this time regarding this bill.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

GRADUAL ADJUSTMENT DAY TWO

Mr. MCCONNELL. Mr. President, today the national average for a gallon of regular unleaded gasoline hit another all-time high of $4.06. For truckers it's even worse, with the average cost of diesel now at $4.79 a gallon.

Every American is suffering the effects of high gas prices. But low- and middle-income families are hurting the most. Many now spend a significant portion of their income just getting to and from work. A good number of people in eastern Kentucky are spending 15 percent of their income just on gas.

Some people are taking second jobs just to cover the cost of getting to and from their primary jobs.

Prices are so high Democrats are starting to talk about gas prices being a serious problem. A number of them spoke yesterday about the effect that gas prices have on the wider economy.

The junior Senator from Colorado told us about a farmer in Kit Carson County who is worried he won't be able to afford the diesel fuel he needs to harvest his wheat crop at the end of the summer.

The junior Senator from Montana said manufacturers in his State are at risk of shutting down, that truckers are struggling to make ends meet, and farmers are struggling to pay for fertilizer. The junior Senator from Minnesota said the people of her State are lining up around the block at the

Costco in Minneapolis just to save some money.

Even the senior Senator from New York got in on the act, though mostly as an excuse to go after the 2001 and 2003 tax cuts. I am not sure how this was relevant to gas prices. Maybe he thought people would feel better if they realized they'd be even worse off if we hadn't cut their taxes.

But to all our friends on the other side who have spoken about the crushing effects of high gas prices, I would simply add that they are right on target. High gas prices do affect everything. High gas prices do hurt. And I would also add this: Democrats in Congress have no plan to lower them.

In a month when gas prices have hit record highs, Democrats have proposed three things: a massive carbon tax, a tax on energy companies, and allowing trial lawyers to sue our trading partners. This isn't an energy plan. It is a caricature. It is a caricature of a party that seems incapable of conceiving any solution to any problem that doesn't involve taxation or litigation.

With gas prices causing unprecedented pain at the pump for working Americans, Democrats have responded by trying to raise taxes that we know will be passed onto consumers. Ignoring the iron laws of supply and demand, they insist that high gas prices must be the result of some corporate plot instead. But the current crisis is a supply and demand problem—not a supply and demand and litigation problem, not a supply and demand and taxation problem, a supply and demand problem.

It is fairly straightforward: at the moment, there's greater demand than supply. And last year, Republicans joined Democrats in addressing demand by passing the first increase in national fuel efficiency standards in more than 30 years. We have also tried to address the supply problem by increasing production of American energy. At every turn, we have been blocked.

Since 1991, the Senate has voted a dozen times on allowing limited exploration in a small portion of the Arctic National Wildlife Refuge. A Democrat President has vetoed it or Democrats have blocked it every single time. When he did it, incidentally, gas at the pump was $1.06 a gallon.

Last year, the Senate voted on proposals to expand refinery capacity, invest in coal-to-liquid technology, and open up more domestic reserves. Democrats blocked each one.

Last year, Republicans proposed allowing Virginia to go forward with deep sea exploration off its coast—something that Virginia, under a Democratic Governor, wants. Democrats in Congress said no.

Republicans have tried to allow the use of oil shale from Western States as an alternative to foreign oil. Democrats imposed an oil-shale ban in last year's Omnibus Appropriations bill.

Last month, Republicans tried to increase production of American energy again, along with an increase in support for clean energy technology and plug-in hybrid vehicles. Democrats said no.

And just last week, I offered an amendment to ensure that if the Boxer climate tax bill caused gas prices to go up, we would suspend its provisions. Democrats blocked that too.

For years, Democrats have blocked every effort to increase the production of American energy and help bring gas prices down. They have said no to States that want to allow for deep sea exploration off their shores. They have blocked the use of oil shale. They have blocked a dozen efforts to open a small portion of ANWR for environmentally sensitive exploration, which—if it had not been vetoed 13 years ago—would be providing a million barrels of oil a day to American consumers right now.

That's twice as much as the senior Senator from New York wants us to beg from the Saudis. And now, they want to raise gas prices even more through higher taxes.

It should be abundantly clear by now to anyone who is paying attention that our friends on the other side have no serious plan for lowering gas prices. As the record suggests, their primary concern is blocking increased production, which has inexorably led to record gas prices.

If people are being forced to change their lifestyles, if the price of goods is skyrocketing, that is apparently all right, according to our friends on the other side. Their Presidential nominee even admits it. He says the high price of gas isn't the problem. The problem, he says, is that prices went up too quickly. If he had his way, he would have raised prices much more slowly.

He would have preferred that gas prices go up more slowly than the $1 increase we have seen under the new Democrat Congress over the last year.

He would have preferred they go up more slowly than the astonishing $1.73 increase per gallon of gasoline we have seen just in the 17 months since Democrats took over Congress in January 2007.

As the Democrat nominee put it in an interview earlier this week, he would have preferred a ''gradual readjustment'' in gas prices, presumably so Americans wouldn't notice the shock of it.

We used to think $4 a gallon gasoline was unthinkable. Our friends on the other side were apparently thinking about it all along. ''I think I would have preferred a gradual readjustment.''

Those are the words of their nominee.

While Americans are reeling over high gas prices, increasingly demanding that we increase our production of American energy, Democrats haven't let us turn over a single shovel for exploration here at home. And now they have got what they wanted.

We all agree that the key to our energy future is clean energy technologies and alternative fuels that move us away from oil. What the other side refuses to acknowledge is that it will take some time to get there. We are moving in that direction as quickly as we can. We have worked in a bipartisan fashion in both the 2005 and 2007 energy bills to accelerate the process of moving to clean energy technologies and alternative sources of fuel.

But the facts are clear: in the short term, America will depend on fossil fuels to drive our economy. For the foreseeable future, our choice is the same as it's always been: either import our energy from people like Hugo Chavez and from Saudi Arabia or use more of our own. But our friends on the other side have removed the option of increased American energy created by increasing American jobs. They have made sure we have only one option. They have put domestic energy off limits. And now we're paying the price.

Republicans have been willing to work with Democrats to address both sides of this problem. Republicans enthusiastically support conservation.

Last year, we supported the first increase in automobile efficiency standards in more than three decades. We have supported investments in alternative energy. We know this problem requires action on both the supply and the demand side. And we have shown it. But we're still waiting for our friends on the other side to show the same commitment to actually address the problem.

For the sake of all the American people, who will today make hard choices at the gas pump, we need to work together to lower prices now, and that means that as the third largest oil producer in the world, America needs to increase its own domestic supplies in an environmentally responsible way so we are less reliant on Middle East oil and so our people finally get some relief.

21ST ANNIVERSARY OF ''TEAR DOWN THIS WALL''

Mr. MCCONNELL. Mr. President, today is the anniversary of an important event in recent world history that demonstrates the impact that words—well-chosen words—can have.

June 12, 1987, marks the day that President Ronald Reagan issued a challenge to Soviet Premier Mikhail Gorbachev to make unmistakably clear his commitment to lessening Cold War tensions and increasing freedom in Soviet-dominated Eastern Europe.

Speaking before the Brandenburg Gate in what was then West Berlin, President Reagan stood only 100 yards away from the Berlin Wall, which had divided the free people of West Berlin from the captive Germans in Soviet-controlled East Berlin for decades. An estimated 20,000 people gathered to hear him, including West German Chancellor Helmut Kohl.

''There is one sign the Soviets could make that would be unmistakable,

that would advance the cause of freedom and peace,'' President Reagan said.

Addressing the Soviet Premier directly, he then continued:

If you seek peace, if you seek prosperity for the Soviet Union and Eastern Europe, if you seek liberation: Come here to this gate! Mr. Gorbachev, open this gate! Mr. Gorbachev, tear down this wall!

Two years later, Germans East and West did raze that wall, presaging German reunification and the fall of the Soviet Union. A piece of the Berlin Wall is preserved today in the Ronald Reagan Presidential Library in Simi Valley, CA.

At the time, the Soviet state-run press agency called this historic speech ''openly provocative'' and ''warmongering.'' But Chancellor Kohl, who was there, knew the truth. ''Ronald Reagan was a man who achieved great things for his country,'' Chancellor Kohl said in 2004. ''He was a stroke of luck for the world, especially for Europe.''

There we have an example of the power to make walls crumble, by the sound of freedom—all because of the right words, well chosen and linked to the right policy.

We cannot say what national security crisis will confront us in the future, but we can say that confront us they will, no question about it. When that happens, the world must know that America will fight on the side of justice and freedom.

One great leader made that clear 21 years ago today when he said four simple words: ''Tear down this wall.''

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader.

REPUBLICAN FILIBUSTERS

Mr. REID. Mr. President, the remarks my friend, the distinguished Republican leader, made regarding the energy crisis facing us are, as has been this past week, Orwellian. Everyone listening to what he said understands the direct opposite has happened. Everyone knows we are not doing legislation because the Republicans will not let us.

There are 51 Democrats and 49 Republicans, a closely divided Senate. The Republicans have decided they are going to let us do nothing, and that is what they are doing, letting us do nothing. We want to legislate; they want to obstruct.

Let's take the three bills we dealt with this past week. Global warming: No, they would not let us legislate on that bill. We offered two amendments, three amendments, five amendments, eight amendments, relevant, germane—nothing. They did not want to legislate, and we knew that was the case because as we read into the RECORD several times, there was a piece of work that came on e-mail from the Republicans who are devising the strategy for the Republicans in the Senate, and they said in that memo that there is no legislation going to take place here; we are going to play political games. ''Political games'' were their words, and that is what they did.

As we have been here—the Senate opened 20 minutes ago—global warming has gotten worse, not better. It is time we decided to take some hard decisions and realize we cannot continue to take all this carbon out of the Earth and put it into the sky. That is what global warming is all about. We have to stop this.

We wanted to do something about gas prices. Of course gas prices have gone up. Since President Bush took office, the price of gas has gone from less than $1.50 a gallon now to $4.06 a gallon. As the Republican leader said, diesel fuel is approaching $5 a gallon. But during this period of time, we have been following the Cheney energy policy. The Cheney energy policy was one devised in the White House in secret. The press, groups around the country have tried to find out what went on, who came, what were the promises made. Obstruct—they would not allow us to find out what went on. The American people to this day do not know what went on. But we do know the Bush-Cheney administration is the most oil-friendly administration in the country. They made their fortunes in oil and they have treated the oil companies accordingly this past 7½ years.

We tried to do something about gas prices. We think it is important that we take a look at OPEC. It is not just Democrats talking about it. Arlen Specter, the ranking member and former chairman of the Judiciary Committee, believes that is an extremely important issue. OPEC is violating the Sherman Antitrust Act. Why shouldn't they be subject to it? That is what we wanted to legislate, and they would not let us.

We wanted to take away the huge amounts of free money the oil companies get. Why should they get all the free money from American taxpayers when they made during the past year $250 billion in profit—not million, billion. We tried to legislate on that issue saying these subsidies to big oil should be terminated.

We thought it was important to do something about these windfall profits these companies are making. We were stopped from doing that.

The Presiding Officer knows about legislating. He understands that legislating is the art of compromise. Is any one of the pieces of legislation we introduced perfect? Of course not. But it is an opportunity for us to try to do something about these gas prices. In the short term—these are short-term fixes for the gas prices I talked about—they would not allow us to legislate. And yesterday we tried to legislate on doing something about alternative energy, renewable energy. The Sun shines, the wind blows, steam comes out of the Earth. Shouldn't we harness that for our own benefit? Shouldn't we use that so we do not have to use 21 million barrels of dirty oil every day that is making our lives miserable with global warming, ruining the health of people all over the world? Shouldn't we do that? The Republicans say no. They would not let us legislate on that issue yesterday.

We want to give the American entrepreneurs the ability to invest in renewables. People are waiting to invest billions of dollars if they have the opportunity for these tax credits, but the Republicans say no.

My friend said that Democrats think this is some kind of a corporate plot. We don't think it is a corporate plot. We do think the oil companies are making far too much money. And the sad part about it—my brother for many years was a service station operator. My brother worked for Standard stations. I worked for Standard stations. He became a manager for Standard stations. The Chevron oil company had Standard stations and Chevron stations. Chevron stations were dealers, individuals such as my brother Dale—may my brother Dale rest in peace. He died at the age of 47. He was a Chevron oil dealer. He worked very hard. He didn't make much money with the gas that was pumped. He made money selling water bags, which was a canvas bag people needed to go across the desert if their car broke down, batteries, fan belts, tires. That is where he made his money; not very much, but that is where he made his money, not at the gas pump. And it is still that way. The modern Dale Reids with stations around America are not making much money. The money is going to these massive oil companies.

I don't think it is a corporate plot. I think it is a Bush-Cheney plot. I think these people have done nothing. These two men have done nothing to address the energy crisis facing America. It took 7 years of this man's Presidency before he could say the words ''global warming.''

My friend has used the name of the senior Senator from New York, Mr. SCHUMER. I am going to defend Senator SCHUMER. Senator SCHUMER is my friend. He does an outstanding job representing the people of New York, and he has done an outstanding job representing all Democrats as chairman of the Democratic Senatorial Campaign Committee. This is a difficult job, not one people seek. Senator SCHUMER took that job when he could have been Governor of the State of New York. All the editorials said he would be the next Governor of New York. I knew that when I became Democratic leader. I asked Senator SCHUMER, recognizing he could be the next Governor of New York: Will you take the Democratic Senatorial Campaign Committee? It is important for the country. And he gave up literally the governorship of New York, in my opinion, to take this job. He has done a tremendous job: nine new Democratic Senators last year.

He said yesterday in his speech before the Senate, among other things, that the 75 filibusters the Democrats have had to face with this Republican minority, which is so upset that we are in the majority, is creating problems for Republican Senators. It is the truth. Senator SCHUMER said:

It is unconscionable that the American public is being forced to use their stimulus checks just to pay for gas.

Senator SCHUMER came and spoke for the American people. He spoke for the people of New York, he spoke for the people of America, saying: Why not let us legislate? And the fact that the Republicans are not letting us legislate on anything is going to work in November to the advantage of the Democrats. I think that is clear.

Look around the country. I am not going to predict what is going to happen in November, but the majority is going to be bigger than 51 come November. Why? Because the American people see what is going on with this Republican minority. It is the same in the House. Republicans have the same philosophy: status quo, keep things the way they are, tread water a while.

As a result, when Dennis Hastert—he broke the record for the longest Republican Speaker in the history of the country—retired, a heavily Republican House district in Illinois goes Democratic. That was only a quirk, they said.

Then we have a race in Louisiana, a heavily Republican district, been Republican for a long time, and it goes Democratic. Why? Because the American people see what is going on.

Illinois, a Republican district, sees what is going on; a Republican district in Louisiana sees what is going on. In Mississippi, they appointed Congressman Wicker to be a Senator after Senator Lott retired. That district—we don't have to worry much about that, that is a Republican district, always has been, always will be, except the people of Mississippi see what is going on and they elected a Democrat. Now we have a Democratic House Member representing that so-called Republican district.

We want to legislate. We want to legislate for the American people. All we want is an opportunity to go forward and not have to face 75 filibusters and legislate as the Senate has been doing for many decades.

These Orwellian speeches given by my friend when he says ''It's the Democrats' fault, they have been in power a year and a half; that is why gas prices are so high,'' think about that, everybody, think about that, how unreasonable that is.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. Mr. President, the speech of my good friend, the majority leader, sounds eerily similar to the one he made yesterday morning at exactly the same time, so I won't prolong this back and forth other than to say it is an interesting campaign speech, but the issue before us is, if we do want to legislate, we know how we have to legislate in the Senate. We had the same discussion yesterday morning. The way you don't legislate in the Senate is refuse to let the minority offer amendments.

I know this is inside baseball to most observers who don't follow every nuance of what we do in the Senate, but the way you legislate in the Senate is you call up a bill and you have a free amendment process and then you pass it. Prematurely filing cloture, filling up the tree, preventing the minority from having any serious impact on legislation doesn't work. You can call that obstructionism if you want, but another way of looking at it would be to say the majority leader would like to turn the Senate into the House, and that is not the way we operate here. The Republican minority is pretty unified over the notion that they do not intend to be irrelevant.

With regard to the issue that is of most importance to the country—global warming—in fact, it is still the pending business. My Members are anxious to offer amendments on that debate. We have been on that measure. We discussed it all day yesterday and have been discussing it in previous days. We actually voted to continue the debate and would like to have a chance to offer amendments to it.

But I think my good friend, the majority leader, would like, rather than giving us a chance to truly amend the bill, to just simply check the box and say: That is another filibuster, and move on.

It is a fact—it is not any kind of Orwellian spin—that gas prices are up $1.70 since the Democratic majority took over. It is also a fact that Republicans, as I indicated in my comments earlier, are open to any of the conservation measures that have been suggested. But the fundamental problem is that our good friends on the other side are not willing to do anything whatsoever on the production side.

Even though I think, for example, that suing OPEC is somewhat ludicrous, I would be open to it if someone on the other side would say: OK, we will sue OPEC and we will add to that a measure allowing the opening of the Outer Continental Shelf, where States want to. I mean, why should the Federal Government prevent a State that actually wants to open the Outer Continental Shelf from doing so?

That is the way you go forward around here, with each side getting something. But, unfortunately, in these debates, they want it their way or not at all, and they do not even want to give us a chance to consider or approve these efforts to increase our production.

So the way to legislate in the Senate is pretty clear. The majority leader and I have been around here a while. We remember when we used to pass legislation, and we also remember how we did it. As I indicated yesterday morning, a good model for big, complicated bills, as the Clean Air Act of 1990 was—it was on the Senate floor for 5 weeks with 180 amendments and everybody participating, everybody offering amendments. We worked our way through the process, and we passed a major piece of legislation. You can't bring up something like a climate bill, fill up the tree and file cloture, and call that a serious effort to legislate.

I am sure it is somewhat confusing to casual observers, all this spin back and forth, but the fact is, the Senate is a place full of serious legislators on both sides of the aisle, and the only way we will actually be able to accomplish anything for the American people is for everybody's rights to be respected, for everybody to have a chance to participate, and at the end of the day to make some kind of bipartisan accommodation that would include some things the other side would like to accomplish, which I might not think is a great idea, but would also include some things that most of my Members believe would make a difference. That is the way to pass major legislation.

So, Mr. President, I enjoy these morning discussions with the majority leader. He is a good friend of mine. I like him a lot, I enjoy working with him, and I hope we can get past making a campaign speech every morning and actually see if there isn't some way to move forward on important legislation for the American people.

I yield the floor.

Mr. REID. Mr. President, my friend would like everyone to be confused. No one is confused. No one is confused as to what is taking place here. All records in the history of this country have been broken on the number of filibusters. No one is confused about what is going on here.

We know we have worked with the Republicans to do something about production. Of course we have. But we want to do something long term; we want to do something short term. The American people are being drowned with the smoke in the air, and too much carbon is coming out of the ground into the sky. We want to do something with the Sun and the wind, the geothermal.

The OPEC measure is ludicrous? Mr. President, tell my friend, the ranking member of the Judiciary Committee, the former chairman of the Judiciary Committee, who is the biggest proponent in Congress of OPEC being subject to antitrust laws, that is ludicrous. I say to the Republican leader, tell ARLEN SPECTER it is ludicrous to go after OPEC. Those are the words of the Republican leader.

Finally, Mr. President, here is what they want to do on global warming. This Orwellian verbiage we have heard this morning, that they want to do something on global warming, well, here is what they want to do about global warming. The e-mail on the Republican strategy that we obtained says this:

The focus is more on making political points than in amending the bill.

That is what they said. And it continues:

GOP anticipates a struggle over which amendments are debated and eventually fingerpointing over blame for demise of the bill. The bottom line is that the GOP very much wants to engage in it for a prolonged period, and then make it as difficult as possible to move off the bill.

The focus is much more on making political points than on amending the bill.

The American people aren't confused, Mr. President.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MEDICARE IMPROVEMENT FOR PATIENTS AND PROVIDERS ACT OF 2008—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 3101, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to S. 3101, a bill to amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. SCHUMER. Mr. President, I have come to speak on the Medicare bill, but I must make a few remarks in relation to the debate between the majority and the minority leaders. The bottom line is very simple, and that is they haven't said let's fight over what amendments nor have they offered amendments. They have said that we will not even proceed to the bill.

So when the majority leader, Senator REID, says it is Orwellian, of course it is. In every instance when the minority has come and said they will do amendments related to the specifics of the issue at hand, the majority leader has been more than accommodating, rankling even some on our side. But they don't want to do that.

Senator REID read the memo. They want to slow the bill down with extraneous amendments that have nothing to do with energy because they do not want to allow a vote, even on ANWR.

Now, my friend from Kentucky talks about ANWR as the answer. Even the most optimistic experts say it will be 7 years before we get a drop of that oil. So the minority leader and the minority are saying wait 7 years and maybe we will get oil prices down. We don't want to wait that long. In 7 years, we could have an energy policy that weans us away in part from fossil fuels in a serious and significant way, like what is being done in Europe and other places. They do not want to do that because big oil dominates. They do not want to do that because their base says drill in ANWR, and the people say no.

This idea that we don't want any production, the minority leader is just patently incorrect. Democrats, including myself, helped lead the charge and voted to increase production in the east gulf. That is the place where there is the most available oil and gas near refineries. And it wouldn't take 7 years the way starting a whole new venture in Alaska would. We voted for it under Republican leadership, when the Republicans led. So we are willing to increase production, but we do believe we are not going to drill our way out of this problem.

The majority leader is exactly right. The actions of the minority leader say: Don't even debate it. Then he says they want to debate it. Well, if you want to debate it, don't block the motion to proceed. And I am certain—though I haven't talked to the majority leader about this, but I will, and I know from his past actions—if they have a series of amendments that are related to energy, they will be entertained. But if they want to debate George Bush's tax cuts or the estate tax, well, the majority leader has a perfect right to say, don't do it.

So, Mr. President, again, this week in the Senate, Republicans are blocking lower energy costs. They are the party of no—no, no, no. They are the party of no on global warming, they are the party of no on lower energy costs, they are the party of no on tax help for solar and wind, and they are the party of no on preventing the oil companies from just doing everything they want. And as the majority leader said, the status quo is not what America wants, but the status quo is exactly what the minority, the Republicans, are standing for.

I said it yesterday, and I will say it again—I said in the DSCC that I care more about the substance. I would much rather we move forward. But as head of the DSCC, the minority is filibustering themselves right out of their seats. When three-quarters of Americans demand dramatic change, and the minority says no change, that is not a formula for political success. You don't have to be a political genius to know it.

So I would say to the rank-and-file members on the other side, I don't understand the logic, I don't understand the thinking, but you are sure not helping yourself or helping your country.

Now, Mr. President, I would like to talk about Medicare for a minute—that is the bill we are on—and I rise to speak in strong support of the Medicare Improvement for Patients and Providers Act of 2008. I want to congratulate our leader on the Finance Committee, Chairman Max Baucus, for introducing this much needed legislation.

When Lyndon Johnson signed Medicare into law in 1965, he promised it would transform the lives of America's senior citizens, and he said this:

No longer will older Americans be denied the healing miracle of modern medicine. No longer will illness crush and destroy the savings that they have so carefully put away over a lifetime so that they might enjoy dignity in their later years.

No one could have said it better, and yet 40 years later we are at a critical moment. Do we make much needed improvements to the program to allow it to fulfill its promise to America's seniors or do we ignore this challenge?

We have worked hard in the Finance Committee to put together fair and reasonable legislation that is supported by all physicians groups and millions of beneficiaries. We have compromised. I don't believe Medicare Advantage should come out of medical education. It affects my State, the majority of it will, and I am still willing to sort of suck it in and say, OK. But some on the other side are saying no, it has to be all their way. We know that fee for service in Medicare Advantage is far more lucrative and far more spread around the country. Yet we don't have very much of that in here to help pay for the other necessary increases. But it is a compromise bill. It is a bipartisan bill with broad support on the Finance Committee, and I urge all Members to vote for cloture today so we can provide help to millions of America's seniors and the hard-working health care providers who treat them.

We have to pass this bill to avoid catastrophic cuts to doctors. We know these physicians face a 10-percent cut. To those who say, well, they are doctors, they can afford it, the trouble is, if we do this cut, lots of doctors don't take Medicare, and our poor senior citizens are left in the lurch. When we cut resources to doctors, patients lose, in this instance. So we need to put aside politics and do the right thing for our seniors and pass this bill.

Some Members seem to think that doing more for low-income seniors—those Americans who are trying to make ends meet and are deciding between filling their car's tank with $4 gas and paying for a doctor's visit—is wrong. Opponents of this measure say now is not the time to improve Medicare. Well, I say now is exactly the time. We need to cut costs where we can and enhance the program where it is needed.

Our constituents are waiting for action. In my State of New York, the AARP dropped off 20,000 petitions in three wheelbarrows at my office in Albany. These 20,000 petitions were from New Yorkers asking Congress to pass this bill, to pass S. 3101, because it helps seniors on fixed incomes, establishes an e-prescribing requirement, and helps limit premium increases.

We are particularly pleased the bill emphasizes preventive health care and expands coverage for key screenings, which can catch problems before they become more serious, and many other important measures.

In addition, the bill stops the cuts to physicians for 18 months and provides a 1.1-percent update for 2009.

The Medical Society of New York and medical societies throughout America are in favor. I have spoken to the head of the AMA, who is Dr. Nancy Nielsen from Buffalo, NY. She is the incoming President of the AMA. She has been tirelessly working, and I want to give her a shout-out of thanks here on the floor of the Senate.

I am particularly pleased that this bill provides increased payments for our ambulance providers. We put in a bill to do this; it got 25 bipartisan cosponsors. GAO found that ambulance providers are reimbursed on average 6 percent below their costs for providing services to Medicare patients. This is unacceptable. It means they cut back on the lifesaving equipment needed in the ambulance. We all know, for things like stroke and heart attack, having an up-to-date, modern ambulance with the most lifesaving equipment is often the difference between life and death, so this increase will actually save lives.

It also, unlike the other alternative, ensures that pharmacists dispensing prescriptions are receiving payments on time. Two thousand independent pharmacies in New York—and many more thousands around the country—are counting on this important change to keep them in the black. That is in the bill. You cannot ask pharmacies, small businesspeople, to just give a line of credit to the Federal Government. That doesn't make much sense.

This is a good bill. I urge we move forward and get the 60 votes. I hope we will not have another filibuster, No. 76. Let's hope and pray that doesn't happen so we can help America's seniors and continue to modernize Medicare and move this bill forward.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHUMER. I ask unanimous consent that during the times when we are in a quorum call, the time be equally divided between the minority and the majority.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHUMER. Now I again suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I ask unanimous consent that following my remarks, the remaining Republican time be allocated to the following list for up to 15 minutes each, with Senator GRASSLEY controlling the remaining time: Senators ENZI, CHAMBLISS, STEVENS, HATCH, CORNYN, and COLEMAN.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 3119 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Ms. COLLINS. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

FUEL PRICES

Mr. ENZI. Mr. President, over the past few weeks I have had the opportunity to come to the Senate floor to speak on a No. 1 issue I am hearing about as I travel around Wyoming, and that is the high price of gasoline and diesel fuel. I want to continue to address that issue today. I listened to the debate on S. 3044, the so-called Consumer-First Energy Act. It might as well be called the No Energy Act because the bill does nothing to improve our Nation's energy situation and will actually do damage to it. One of the targets of S. 3044 is energy speculators. Their role in the high price of energy has been brought up time and time again, and my colleagues in the majority have been especially vigilant in their desire to rein in this group as if they were the big bad wolf.

If you listen to their arguments, they are persuasive. Unfortunately, they don't tell the whole truth. An editorial I recently read from the Wall Street Journal pointed out the flaws in their argument.

The article stated:

The first refuge of a politician panicked by rising prices is always to blame ''speculators.'' So right on time for this election season Congress has decided to do something about rising oil prices by shooting the messenger known as the energy futures market. Apparently this is easier than offending the Sierra Club by voting for more domestic energy supply. Futures markets are not some shadowy, dangerous force but are essentially a price discovery mechanism. They allow commodity producers and consumers to lock in the future price of goods, helping to hedge against future price movements. In the case of oil prices, they are about supply and demand and the future rate of inflation. Democrats now argue that these futures markets are generating the wrong prices for oil and other commodities.

And who are these ''speculators'' driving up the prices? The futures market operator Intercontinental Exchange says that an increasing share of customers are not financial houses but are commercial firms that need to manage oil-price risks—[that means] the refiners, the airlines, and other major energy consumers. Another term for these [energy] ''speculators'' would be ''American business.''

The article continues:

If Democrats won't believe futures traders, maybe they'll heed their biggest political funder. When . . . hedge fund billionaire George Soros testified before Congress on this issue, he noted, ''Regulations may have unintended adverse consequences. For instance, they may push investors further into unregulated markets which are less transparent and offer less protection.''

The article concludes:

Democrats will find that moving jobs to Dubai from New York and Chicago will not end commodity inflation that they themselves have helped to create.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 10, 2008]

DUBAI'S FAVORITE SENATORS

The first refuge of a politician panicked by rising prices is always to blame ''speculators.'' So right on time for this election season, Congress has decided to do something about rising oil prices by shooting the messenger known as the energy futures market. Apparently this is easier than offending the Sierra Club by voting for more domestic energy supply.

Futures markets aren't some shadowy dangerous force, but are essentially a price discovery mechanism. They allow commodity producers and consumers to lock in the future price of goods, helping to hedge against future price movements. In the case of oil prices, they are a bet about supply and demand and the future rate of inflation. Democrats nonetheless now argue that these futures markets are generating the wrong prices for oil and other commodities.

And who are these ''speculators'' driving up prices? The futures market operator Intercontinental Exchange says that an increasing share of its customers are not financial houses but commercial firms that need to manage oil-price risks—refiners, airlines, and other major energy consumers. Another term for these ''speculators'' would be ''American business.''

Not ironically, the leaders of Capitol Hill's shoot-the-messenger caucus are among those most culpable for the lack of domestic oil supplies. Senator Maria Cantwell (D., Wash.) has been threatening to hold up appointments to the Commodity Futures Trading Commission until the CFTC increases regulation of oil trading. In the best tradition of bureaucratic self-protection, the CFTC's acting chief Walter Lukken has agreed to investigate.

Ms. Cantwell's recent press release on ''outrageous energy prices'' didn't mention her own contributions to the problem. According to the Almanac of American Politics, she ''successfully worked the phones'' in 2005 to round up enough colleagues to block drilling in the Alaskan wilderness. Ms. Cantwell has also backed a slew of mandates and subsidies that have helped to raise food prices by diverting corn and other crops to a fuel. She even claims to have helped create the biofuels industry in her state.

Her counterpart in the House is Michigan's Bart Stupak, who claims special credit for a permanent ban on drilling in the Great Lakes and has also cast votes against exploration in Alaska and off the California coast. With $4 gasoline, this is a man in need of political cover as Michiganders head into the summer driving season. A spokesman says Mr. Stupak is hoping to roll out a new bill by the end of this week to require ''additional reporting and oversight' in the oil futures markets.

Then there's New York Senator Chuck Schumer, another staunch opponent of new domestic oil supplies. Mr. Schumer has

egged on the Federal Reserve's rate-cutting binge that has contributed so much to the oil price spike. But, with impeccable political timing, he now suspects ''price manipulation by speculators'' is the real cause of rising gas prices.

Mr. Schumer's answer is the ''Consumer-First Energy Act,'' due for a cloture vote in the Senate today. Bundled with a windfall profits tax on oil companies, the plan also includes an increase in margin requirements for those who wish to trade oil futures. This would of course make it more expensive to trade in U.S. futures markets, which in a world of computerized, instantaneous trading means that those trades would merely move to markets overseas. As luck would have it, the Dubai Mercantile Exchange celebrated its first birthday last week with the launch of two new oil futures contracts that compete with those offered by American exchanges.

Leave aside the question of whether Mr. Schumer believes that the Dubai exchange, which is majority-owned by Middle Eastern governments, will offer more consumer protection than America's shareholder-owned exchanges. This is the same Chuck Schumer who warned in 2007 that heavy regulation threatens New York's preeminence in global finance. Along with Mayor Michael Bloomberg and former Governor Eliot Spitzer, Mr. Schumer introduced a long report on the threats facing New York with a short note that specifically mentioned Dubai as an increasingly formidable competitor. That of course was not an election year.

If Democrats won't believe futures traders, maybe they'll heed their biggest political funder. When Senator Cantwell invited hedge-fund billionaire George Soros to testify last week, she probably didn't expect the backer of left-wing causes to deviate from her market-manipulation narrative. But among other things, Mr. Soros noted that ''Regulations may have unintended, adverse consequences. For instance, they may push investors further into unregulated markets which are less transparent and offer less protection.''

Democrats will find that moving jobs to Dubai from New York and Chicago will not end the commodity inflation that they themselves have helped to create.

Mr. ENZI. Do we need an open and transparent market? Yes. Is there more that could be done? Probably. Which is why the Commodity Futures Trading Commission announced, on June 10, that it was forming an interagency task force to evaluate developments in the commodity markets. Rather than sitting here in the Senate Chamber spending our time criticizing commodities traders, we should be working together to pass legislation that we can agree on to improve our Nation's energy situation. The problem we face is a problem of supply and demand, less American-made energy and more demand for that energy. That is the problem that Congress should be addressing. That is what those in control of both Houses of Congress don't seem to understand at this stage, even though 2 years ago they complained about the price of gasoline and promised they would bring the price down.

The continued rise of gas prices is going to put an end to this dog-and-pony show eventually. Unfortunately, we are not at that point yet where the majority will seriously deal with this issue. The bills we are debating will do nothing to improve our Nation's energy situation. The substitute to the Lieberman-Warner Climate Security Act would have cost us money, at a time when we are paying record energy prices. The so-called Consumer-First Energy Act would lead to less investment in energy; therefore, less supply and, therefore, higher prices for consumers. As bad as these bills are, the process by which they get here is even worse. They don't go through committee. They won't be signed by President Bush, and yet we still waste the time of the Senate talking about them, as if they will be made law and they will improve the Nation's energy situation. That is not the case. It is also not how we do things around here.

I have heard complaints that Republicans are stopping progress on important legislation. I have heard complaints that the majority is unable to legislate. ''Unwilling'' would be a better term. We are paying record prices at the pump. Those record prices are connected to specific actions or inactions by those in control of Congress in the recent past and years ago.

Recently, on May 13, the Democratic majority defeated the American Energy Production Act by a vote of 56 to 42. The measure would have expanded domestic oil production as well as opening the potential of oil shale and coal-to-fuel technology. In 1996, President Clinton vetoed a bill that would have enabled us to get 1 million barrels of American oil a day. That is what we are demanding that Saudi Arabia give us. I remember in 1973, when we made some demands on Saudi Arabia, and they cut us off entirely. Some of us are old enough to remember the gas lines and the shortages we had then. But he vetoed a bill that would have enabled us to get a million barrels of American oil a day from the Arctic National Wildlife Refuge, an area about a sixth the size of Dulles Airport. The entire refuge is considerably bigger, but we are talking about drilling on a very small portion of it.

On May 22, House Democrats voted down a measure sponsored by Congressman MIKE CONAWAY that would have expanded the use of coal to fuel, oil shale, and tar sands, as well as expediting the permitting process for new refineries on three closed military bases. In December, Democratic members of the Senate Environment and Public Works Committee debated a proposal to ensure development of nuclear energy to meet emission goals. That is this year.

The list goes on and on, as does the majority's theatrics of inaction. When they got the majority a year and a half ago, the Speaker promised lower gasoline prices. How have they delivered? Their answer for our need to produce more American energy is to always say no, and their solution is always, let's tax the oil industry, a plan we know won't work because, under President Carter, we tried that, and we drove a lot of business overseas, which is where we have to ship our money unless we can get oil production in the United States. A lot of people don't realize—maybe they do—that Saudi Arabia is the biggest producer and that the Soviet Union is the second largest producer. What they don't realize is that the United States is the third largest producer, and we could solve a lot of our own problems if we were to do some of the things suggested here.

Like most of my colleagues, I support developing more alternative energy. I support the use of wind energy and the development of better solar energy technologies. Wyoming is the perfect place for a lot of that development to happen. We have, most days, the sunshine, and we do get some wind. While we need to develop those technologies for the long term, we need all the energy we can get today. We need more American oil from American soil, we need more domestic natural gas, we need more nuclear energy, and we definitely need more clean coal. More taxes and lawsuits are not going to get us there.

I emphasize again that I have a lot of faith in American ingenuity. For the long term, there is some research that could be done that would work with coal to make it cleaner, greener, and meet the needs, because that is the biggest resource we have. We have more Btus in coal than Saudi Arabia has in oil, and we have that in one county in Wyoming. But for the shorter term, yes, we do need to conserve, and, yes, we need alternative energy sources. We cannot abandon the sources of energy we have right now.

I am going to end with a story. A while ago, I had to go out to California for a meeting. I was supposed to speak in the evening, and my plane got into California at rush hour. I thought: I am probably not going to be able to make this speech. I rented a car. My wife was with me. I found out they have these high-occupancy vehicle lanes. Well, there was one lane for high-occupancy vehicles. I have never seen so many lanes. I am pretty sure there were six more lanes besides the one lane for high-occupancy vehicles. I made that speech on time. I zinged right through that high-occupancy-vehicle lane because it only required two people in the car—only two. Out here, there are a lot that require three, but in California it was only two. Now, what about the other six lanes of traffic? Stalled out. Six lanes—cars stopped dead, idling their motors, putting carbon in the air, one person to a car. Now, that is a State with 34 million people and huge concentrations of people. So I would like to encourage California to carpool a little bit.

Now, I would encourage the people in Wyoming to carpool too, but I spend a lot of time trying to teach the East and the far West about the Midwest, and most of the people we have are driving because they have to and because they are going to a single site where they are the only worker. And

we only have half a million people, to begin with. But a lot of trucks come through our State that are delivering produce and other things to the rest of the Nation, and that is important to have happen.

But when people talk about gasoline and trying to reduce its use, they have to remember that a lot of that is to provide services and products that we in the United States have grown very accustomed to. We do not rely on everything coming from our own county; we rely on it coming from not only the rest of the United States but the rest of the word.

The only way we are going to get out of this dilemma is to work on the short term, which is to get people to conserve; work on the medium term, which is to do some things with alternative energy but to put some research into the future so we can handle the kinds of things we need to provide for the energy we need for this country. Increasing the supply is the only thing that is going to bring down the price.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I rise today to talk about how Congress can take action to provide relief to American families who are really feeling the pain at the pump due to high gas prices.

Obviously, this is a very complex issue and requires a multipronged strategy to respond. But the base price of gasoline reflects the principles of supply and demand. Asian economies continue to boom, creating soaring demand for oil. At the same time, many oil-producing regions are curbing output. These factors can create a perfect storm that leads to historic high prices for the price of crude oil and the resulting prices at the pump we see today.

I believe we must find both short-term and long-term solutions to provide energy security for our Nation and give relief to the unprecedented gas prices we are experiencing today.

Republicans and Democrats recently came together and passed a piece of legislation, with my vote, to suspend the filling of the Strategic Petroleum Reserve until the end of the year. This was an attempt to provide a short-term solution to high gas prices at the pump by dealing with the supply side of the issue. It is a bill that passed with strong bipartisan support.

The Strategic Petroleum Reserve has the capacity of 727 million barrels of oil and currently holds just over 700 million barrels. The United States had been filling this Reserve to the tune of about 70,000 barrels per day.

This was the right thing to do for several reasons: first, because we should not be buying the most expensive oil ever and simply putting it in the ground; secondly, because it will leave a little more oil on the market, which will hopefully alleviate prices somewhat; and third, because it shows that Congress recognizes that increasing the supply of oil in the market can have an impact on the price of oil. Finally, it sends a message to energy markets that Congress can take action and thereby reduce speculation, which certainly has been a participant in the rising price of oil.

Congress also acted in a bipartisan manner to address a component of the long-term solution to energy security by enacting the Energy Independence and Security Act in December of last year. This legislation, again with my support, was an attempt to provide a long-term solution to high gas prices by dealing with the demand side of the issue.

This legislation contains an aggressive new renewable fuels standard that requires fuel producers to include a certain amount of alternative fuel in their product. I am excited about the significant opportunity this provides for Georgia, which has not been a large producer of biofuels in the past, to participate in the development of renewable fuel sources. The renewable fuel standard requires 36 billion gallons of renewable fuels in American motor fuels by 2022. I think it was the right thing to do to require 21 billion of the 36 billion gallons of renewable fuels to come from advanced biofuels. This means instead of corn-based ethanol, we will be making fuels from cellulose such as wood chips, peanut hulls, and switchgrass.

This emphasis on biofuels is consistent with legislation I introduced last year to increase the amount of advanced biofuels and gasoline. This is also very consistent with the farm bill that passed this body. In the energy title in that farm bill, of which I was particularly excited about and remain excited, what we did was to induce the manufacture of additional amounts of ethanol in this country. But the production of ethanol from corn has had unintended consequences—we have seen the price of food products increase. It hasn't just been corn-based food products as a result of the high demand for corn. We have seen more corn planted, which means the demand for wheat, soybeans, peanuts, as well as other commodities, has increased and driven up the price because farmers are simply planting more corn due to the high price. It looks as if the demand is going to be there for a long time to come.

So in this farm bill, what we did was to incentivize the production of ethanol not from corn but from cellulosic-based products, whether it is peanut hulls, switchgrass, pine trees, or who knows. In my part of the world, we have a vine culled kudzu that grows rampant across Georgia, and there is not much use for it. One of these days we may even see a biodegradable product, such as kudzu, become available for the manufacture of ethanol. It is a serious problem, and in the farm bill we sought to address the additional production of ethanol through cellulosic-based products.

I wish to read a couple pieces of correspondence I have received from constituents of mine which further emphasizes the intensity of this problem, the seriousness of this problem, and the fact that all of a sudden families are simply not able to incorporate into their budget this huge increase in gasoline prices in such a short period of time.

Deanna Payne of Winder, GA, writes as follows:

Senator CHAMBLISS: Due to the high cost of gas, I am having to cut down on groceries and visit local food banks. My husband makes the same amount of money he did in 2007, but we just can't make ends meet. Gas prices have doubled the cost of some of the grocery items I used to purchase. I just can't do it. Please give us some relief! This is ridiculous! Americans are going hungry and losing everything!

Another constituent from Augusta writes:

I am very concerned about rising gas prices and what if anything Congress plans to do to help Americans. I cannot afford to fill up my vehicle at these rates which today are approaching $4. My husband is a platoon sergeant training troops at Fort Gordon. I work at the Medical College of Georgia. We have a combined income of over $70,000. It is becoming harder and harder to put any money aside. Not only is the cost of gas rising, but the cost to heat and cool our home and the cost of groceries are all making it difficult to make ends meet. My husband re-enlisted in September 2007. We as a family came to the decision that even during this time of war, the Army was the only guarantee of a paycheck and health care coverage for the next few years. I hope that Congress is putting aside its partisan issues and working together to help all Americans, as I feel our Nation will soon fall apart at the rate it is going now.

A constituent from Montrose, GA, writes:

Please work to help us with the prices of gas and its effects on every household's budget. We should be drilling anywhere and everywhere to alleviate this current situation. The brightest in this country need to be assembled and given the resources to come up with alternative energy sources. We need to have the Nation go to a 4-day work week starting with government agencies leading the way by example. These problems have been gradually getting worse all along with nothing getting done. Steps better be taken soon before this country gets into a position that it can't recover from. Thank you.

From Douglasville, GA:

I am a single mother of 3. I had to take $20 out of my grocery money to pay for gas just to get to work. That is the only place I drive. The kids and I walk to our local stores if needed. This is not the American Dream, or the way we are supposed to live in the great United States! I can't afford a new car that is better on gas. I already drive a 4 cylinder. SOMETHING'S GOT TO GIVE!

I am sure the Presiding Officer has dozens and dozens of these same types of letters in his office, and it is a further indication of the fact that Americans truly are hurting at the gas pump.

It is imperative we provide the leadership in Washington that reacts from a short-term standpoint but, more importantly, looks to the long-term solution to this problem. It is going to be very difficult to reduce gas prices in this short term, but I think, without question, if we implement today long-term policies, we will see an immediate reaction by oil-producing countries and we will see an immediate effect on gas prices and I think, without question, we will see a lowering of those gas prices, to a certain extent.

But the important matter is we have to address the issue. As I look around this body and see the rhetoric going back and forth on both sides of the aisle, I don't see solutions coming out. I see blame being placed. I see political statements being made. I think it is time we put those political statements aside, we put partisan politics aside, and we, sure enough, try to reach an accord for some commonsense solutions to a problem that is having a direct effect on constituents of Republicans and constituents of Democrats alike. It is time we make sure we address this problem for the long term, incorporate the multifaceted issues that are involved, and that we come together and make sure we are doing the work the people sent us to do. I don't see that happening today, and that is what I am hearing from my constituents back home.

So I hope, as we move forward over the next several days before we adjourn for the Fourth of July week break, when we are all going to be back home and we are going to continue to hear these issues raised, we can say: Here is what we are prepared to do in a bipartisan way to solve this problem and to make sure we don't continue to be dependent on foreign petroleum imports, to the tune of 62 percent of our needs; that we are taking action to address that imbalance, and we are taking action to implement measures to ensure that alternative fuels are developed, that the research is put in place to provide those alternative fuels at the gas pump, which will help drive the price down, and that we are prepared to implement conservation measures and implore the American people to also think about that from the standpoint of the implementation of conservation measures. If we don't do it ourselves, it is difficult for us to ask the American people to do it.

So I do hope the leadership in this body, on both sides of the aisle, is listening to the American people and is cognizant of the fact that people across America simply don't think we are doing anything and that partisan politics is not allowing us to do anything; that we address that issue; that we find long-term solutions which will help in the short term as well as the long term; and that we seek positive legislation coming forward from both sides of the aisle to address this problem immediately.

With that, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, what is the situation regarding time?

The PRESIDING OFFICER. The Senator from Alaska has 15 minutes.

DEVELOPMENT IN ANWR

Mr. STEVENS. Mr. President, Americans are forced to pay more for gas every day, every week. The price is going up and up. There have been many ideas presented on the floor of the Senate, but I do think some of the comments made by the Senator from New York, Mr. SCHUMER, need a response. He has made some comments about the developing of the Arctic Plain, known as ANWR. Actually, it is not part of the Arctic Wildlife Refuge. It is 1½ million acres that were set aside in 1980 for oil and gas exploration and development. That land has been waiting for approval of Congress and the President. The 1980 act required that there be an environmental impact statement finding that there would be no irreparable harm to the flora and fauna of the Arctic, and that finding would have to be approved by the President and Congress; namely, it would have to be approved by an act of Congress, signed by the President.

Since 1981, we have tried to proceed as was planned at that time. At the time that President Carter had withdrawn over 100 million acres of Alaska land, the one success we had in that bill—the 1980 bill—was the provision that permitted the exploration and development of the oil and gas resources of this area of the Arctic Plain.

Now, the Senator from New York said opening ANWR's 1 million barrels a day of production would reduce the price of gas at the pump by only a penny. We found that rather strange because he later said he wanted the President to ask the Saudi Arabian people to increase their production of oil from 700,000 to 800,000 barrels a day, and if they did, it would reduce the price of gas at the pump—at first, he said by 35 to 50 cents, and then he said it would reduce it by 62 cents a gallon. I find it strange that 1 million barrels of oil from Alaska would reduce the price at the pump by only one penny but 800,000 barrels a day from Saudi Arabia would reduce the price at the pump by 62 cents. Somehow or other, that kind of calculation is not the way we add up things in Alaska.

Let me repeat that. He said: One million barrels a day from Alaska would reduce the price at the pump by one penny, but 800,000 barrels a day from Saudi Arabia would reduce the price up to 62 cents. It is not really understandable when a Senator presents arguments that contradict each other. I think it is time now for the Senator from New York to come back to the Senate floor and restate his position on ANWR. Is it an economic position or is it just a philosophical position, where he is agreeing with those people who are against exploration and development of the Arctic Slope? If it is, I understand it.

At first, the Senator from New York said he favored drilling in the eastern Gulf of Mexico because the oil could come to market more quickly than Alaskan oil. That, too, is too much to pass up. Congress authorized the eastern gulf development a year and a half ago, in December 2006. The lease sale occurred this past March, and it will be 7 to 10 years before that oil comes to shore. As a matter of fact, it is probably going to take longer to develop the gulf oil than it would take to develop the Alaskan oil on the Arctic Slope because the 3–D seismic has been done in our State. We know where the oil is located. We just have to finish exploration and develop that field. And it would take less time because there is a pipeline already in place.

Perhaps the Senator from New York has forgotten that we have a pipeline. At the time of the Persian Gulf war, that line carried 2.1 million barrels a day to American markets. Now it is carrying about 700,000. It is about two-thirds empty, Mr. President. That is a very difficult thing for Alaskans to understand, when we know there is oil in the Arctic Plain waiting to be developed. As a matter of fact, if President Clinton had not vetoed the ANWR bill in 1995, we would have up to 1½ million barrels a day being delivered today through that pipeline. That argument has been the same every year since 1980.

I have been here every year trying to get approval of the finding that there would be no irreparable harm to the Arctic if developed. It is supported by the people of Alaska and other people of the United States and there is an overwhelming approval now to proceed with development of the Arctic Slope. It has to be done.

We have had development of our Arctic at Prudhoe Bay. At the time we argued on the floor of the Senate for approval of the amendment to permit the oil pipeline to be built back in the 1970s, there were cries on the Senate floor, in the press, and throughout the country that it would harm the caribou, that the caribou would be put into jeopardy.

Mr. President, there are three to four times as many caribou in that area now than before the pipeline was built. As the pipeline was built, in the area where it was restored, we planted grasses there that were even better than the natural grasses. If you want to see caribou in Alaska now, the place to go is by the pipeline. We have not had any spill on shore of any nature. There was some last winter—in terms of a gathering pipeline, that leaked a little. But it was during the wintertime, and it was totally cleaned up and there has been no irreparable harm.

We have literally billions of barrels of oil available to us. At the time we proceeded with the oil pipeline, the estimate was made that Prudhoe Bay would develop 1 billion barrels. Well, we have sent over 14 billion barrels of oil to the south 48, by virtue of the Mondale amendment to the Oil Pipeline Act, that all the oil transmitted in the Alaska pipeline must go to American markets. I voted for that amendment. I think this is American oil, and it should fill American needs. As a matter of fact, we are tired of seeing the increase in the importation of oil from foreign sources.

At the time of the 1970s embargo on oil by the Arab nations, we were importing about 33 percent of our oil. Today we are importing over 60 percent of our oil. In about 5 years we will be importing about 40 percent of our natural gas, LNG. Think about that. This Nation, which has been a leader in the world in industrial development and in technology, is going to be at the place where almost two-thirds of our need for oil or gas is going to be dependent upon foreign sources, when we have known areas in this country that can boost out oil and gas.

It is primarily a situation where this is an opposition that has arisen on a political basis. After President Clinton vetoed the ANWR bill in 1995, many of my friends on the other side of the aisle decided they would not support ANWR anymore, and they have voted that way.

I think it is unfortunate because we should have access to develop American sources of oil to meet American needs. This area of our North Slope meets those conditions fairly well. I do think the concept of the Senator from New York, in demanding that the President go to Saudi Arabia to increase their production when he opposes doing so in this country, is unacceptable.

It is the duty of Congress to keep American dollars in America when we can. By developing a very small portion—less than 2,000 acres of that million and a half acres, which is all we need to develop for the oil and gas resources of the Arctic Plain—we could offset the entire oil imports we bring in from Venezuela or Saudi Arabia. I was surprised at my friend from New York, when he said the idea of developing the ANWR oil is a poorly executed ''magic trick.'' I don't know what is magic about it. It is just a matter of simple engineering. We can and have developed oil and gas in the Arctic, and we have not seen the harm that other people have indicated would come to either our area or to the wildlife of our area.

We need to have Americans realize it is the very fact of starting to develop this oil that will bring down the prices from foreign sources. Once the foreign sources see we are getting ready to increase our own supply, they will start reducing their price in order to take away the incentive we have, based on the current prices, to open these areas in the United States. So if you want an immediate reaction from anything, in terms of this current gas price problem, then have the Congress act and have the President sign a bill to start the development of the Arctic Plain, known as ANWR. If we do that, that signal to the foreign producers of oil will say America is just getting ready to restore its own supply. If it restores its own supply, prices will come down in foreign oil. They don't want our competition; they want our markets. So far they are convinced that we will not provide our own oil, and since we will not, there is no limit to what they will charge us for oil.

We have seen such a dramatic change that I cannot believe it. At the time the oil pipeline was approved, oil was $7 and $8 a barrel. It is now approaching $150 a barrel. Why? Because of the law of supply and demand. We have refused to increase our domestic supply of oil, and having done so the price is set at a world price.

I remember there used to be a posted price in San Diego or Los Angeles or Philadelphia or Seattle or even in Alaska—a posted price by the refineries on how much they paid for oil. That is no longer the case. The case is now that we look to the foreign suppliers to see what they are going to charge. We have to pay whatever they charge. With an increasing demand all over the world from the developing countries, such as China, there is no reason for us not to understand what is happening.

Just a week ago, on the front page of the Wall Street Journal, there was a chart that showed the future situation with oil and gas. It showed the supply almost steady at the same level for coming years. It showed the demand on an ever-increasing curve going up, up, and up. When the price of oil started going up, I predicted on the floor of the Senate, when we debated the ANWR situation in 2006, that the price of oil could reach $100 a barrel. Actually, there was laughter from the other side of the aisle. Some of my Democratic colleagues laughed and said it was another exaggeration by the Senator from Alaska.

Mr. President, it reached not only $100 a barrel, it is over that. It is going to stay over $100 a barrel, until we wake up and start developing our own supply of oil. Once we start developing that supply, the foreigners will know we are going to be able to bring that price down by our supply, and they will start bringing it down so we will not increase it to the point where we present a dangerous challenge to their domination of the world market, as far as oil is concerned.

I think the concept of these imports has just been totally missed. My friends talk about exporting jobs. Nothing has exported more jobs than purchasing our oil abroad. Every 1 million barrels of oil a day coming in has eliminated 20,000 jobs in the United States. That is 20,000 jobs for every million, and we are importing over 12 million barrels of oil a day. Mr. President, 12 million barrels of oil is the same as 240,000 jobs.

When we look at this, I think it is time for the Senate to settle down. I do hope my friend from New York will settle down a little bit because there is no trickery in ANWR, there is no trickery in exploring and developing American sources of oil. The trickery is in terms of the prices we are paying, the exaggerated prices caused by those who are buying futures and speculating futures on our oil. We are no longer buying oil from foreign sources, we are buying them from some of our own people who invested in futures, and they are speculating on that price and driving up the price.

It is time for us to get down to the fact that we must find a way to authorize exploration and development of the Arctic Plain, known as ANWR.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak on Senator CORNYN's time for up to 5 minutes, and I further ask unanimous consent that after I speak, the Senator from Illinois be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I appreciate my colleague from Alaska raising some of these points. I was thinking particularly about the point that the markets react to what actions are taken, and that is a key point on driving prices down.

I used to report on commodity markets a number of years ago when I was a broadcaster. The idea of buy on the rumor and sell on the fact is something to which markets react. So we could help on a near-term basis driving these prices down if we would act. Plus, I like the idea of pegging a price of a gallon of gasoline. When the average prices across the country hit $4.50 a gallon, let's give Governors the option of opening some of these closed-off lands. These are ideas we ought to be talking about on getting energy prices down.

TORNADO DAMAGE IN KANSAS

Mr. President, the reason I have come to the floor is not to talk about energy prices but to talk about what happened in my State last night. We had devastating tornadoes. A series of tornadoes struck parts of our State and caused at least two deaths and a huge amount of damage in a swath 150 miles long. The counties of Ellsworth, Saline, Dickinson, Riley, Clay, Geary, Pottawatomie, and Jackson all suffered severe damage last night.

The town of Chapman in Dickinson County, with a population of 1,400, appears to be the hardest hit. Initial estimates are 85 percent of the homes and businesses have received some damage, and up to 70 percent of the town may be destroyed.

One person is reported dead in Chapman. Also one person is reported dead in Soldier, KS. That is in Jackson County. Certainly, my prayers and the prayers of many go to the victims and their families who are struggling and suffering.

Damage was also reported in Salina, KS, and Manhattan, KS. The northern part of Kansas State University apparently received extensive damage.

I am hopeful my colleague PAT ROBERTS and I will be able to travel with others this afternoon to look at some of that damage.

Evidently, the tornado touched down near the old field house on Kansas State University campus, the Ahearn Field House, and traveled across campus. There was damage sustained on Cardwell Hall, Ward Hall, Burt Hall, and the engineering complex. Ward Hall houses a nuclear reactor, a teaching facility nuclear reactor, and the building received some damage. The reactor is safe.

The Wind Erosion Laboratory, a federal laboratory on the K State campus, apparently was destroyed.

Damage was also reported in several of the parking lots with cars being tossed around. The Sigma Alpha Epsilon house received extensive damage. Thankfully all the residents there are safe.

While it is early, the damage will be well into the millions of dollars. My office and the office of my colleague PAT ROBERTS contacted FEMA and State officials this morning, and we continue to work closely with both State and Federal officials to help the citizens of Kansas rebuild.

This has been a very difficult, extraordinary tornado season. I was in north central Kansas on Monday of this week looking at damage to another of our towns, Jewell, KS, and the extensive damage there by a tornado within the past 2 weeks. We have had these on a periodic basis. We are getting a lot of hail damage and a lot of wind and rain damage throughout the State. It seems as if every other night there is some system developing and passing through the region.

Certainly, as well, everybody's thoughts and prayers are with the scout troop in Iowa that suffered four deaths, apparently perhaps more, due to the tornado that was in much of that same line of thunderstorms and tornadoes that swept throughout much of the Midwest last night.

I say that to this body as a way of recognizing and stating to people what is taking place as far as damage, and also the support and help we are going to need throughout the Midwest for some of the tornado damage that has occurred. It is extensive.

We are in a very difficult tornado season. It does not appear to be abating. We are getting a lot of flood damage, hail damage, and tornado damage. We will be reporting back to the body on some of the work that is going to need to be done to rebuild, whether it is Kansas State University, Chapman, or other places that have been damaged. We can only hope we can last the rest of the season with no more loss of life and hope there is no more damage to communities. But it has been a very difficult season.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The assistant majority leader is recognized.

PRICE OF GASOLINE

Mr. DURBIN. Mr. President, in my brief period of time, I wish to address two issues. One relates to a topic that is important across America. Another relates to the pending legislation.

The first topic is the issue of the price of gasoline. I don't need to show this chart to people to remind them what is happening. Beginning with the Bush administration when the President was sworn into office, the average price for a gallon of gasoline was $1.47. As of June 9, the average price across America was $4.04, the most dramatic increase in the price of gasoline in our history. It is a situation which has called for analysis and attention because no matter where we go—in Illinois, Ohio, in any State—people say: Senator, what are you going to do about these gas prices? They are killing us.

They go to the gasoline stations, the service stations, pull out their credit cards and cash, and cannot believe how much it costs. It is not just an inconvenience for many people, it is a hardship. For some, they have had to make family budget decisions because they cannot afford to keep the tank full, and many do not have an option. If they are from my part of the world in downstate Illinois, there are not that many buses outside the cities. There is no mass transit. What are you going to do? You moved out into the country to get a home you can afford. You commute to a job spending an hour each way to work. And now filling that gas tank takes so much of your paycheck, so you have to cut back in other areas or borrow more deeply, finding your credit card balance growing and your ability to reckon with it diminishing. That is the reality of where we are today.

Obviously, people across America say: Well, Senators, what are you going to do about it? You were elected, weren't you, to do something about the issues and challenges facing our country?

So this week we came to the floor and said: Let's debate it. Let's put our best efforts to work. Let's debate a bill that may help and amend it and try to come up with some way to deal with the energy crisis facing America.

On Tuesday, we took this vote. We needed 60 out of 100 Senators to vote to start the debate—60 out of 100. When the final count was in, all the Democrats voted for it, six or seven Republicans joined us, and we were still about nine votes short of what we needed. The motion to proceed failed.

At that point, we couldn't even debate the most serious issue facing families and businesses across America. That is unfortunate. All we needed were nine more Republicans to join us to start the debate. That is all we wanted to do—start the debate. Maybe we would have agreed on something. Wouldn't that be newsworthy.

But as it stands, we had two votes on Tuesday, we tried to proceed to bills, and in both instances, the Republican minority said: No, we don't want to debate anything on the floor of the Senate this week. And that is exactly what we have done. We have debated nothing.

If Members of the Senate were paid for the votes they cast, this Senate this week has not earned a minimum wage. I don't know how we can continue to do this in what is euphemistically called the world's greatest deliberative body. Mr. President, do you know what the problem was? One of the provisions in our bill angered the Republicans. We suggested that the oil companies, if they are going to charge these outrageous amounts for their products, should be subject to a higher tax for windfall profits. I support that. I think it is the right thing to do, to discourage the profit taking that is going on. Many Republicans oppose it, and I don't question their motives on it. Isn't it worth debating? Isn't it worth a vote? At the end of the day somebody wins and somebody loses. That is what happens on the floor of the Senate. But on the Republican side, they stopped us from even going to that debate over the oil companies.

Surely, they must hear from their voters at home how bad the situation is. I know they hear from the oil company lobbyists who are roaming these hallways that they need to be protected.

Let's take a look and see how the oil companies have been doing. Not bad. Starting in 2001 when President Bush arrived on the scene, this is an indication of the profits of the oil companies. Profits of the oil companies under this administration have gone up 400 percent.

Some of the numbers are startling. In 2006, profits reported by ExxonMobil were $39.5 billion, the largest recorded profit in U.S. history. Listen to that. Not the largest recorded profit by an oil company; the largest reported profit by any business in the history of the United States of America.

Come 2007, ExxonMobil broke its own record. Profits went up to $40.6 billion; the annual salary for their CEO, $21.7 million. A retirement package for ExxonMobil's previous CEO—job well done—no gold watch for this man, a gold mine, $400 million as his farewell gift. What a great party that must have been to say thanks for all the good work you have done for ExxonMobil. Here is $400 million. Have a nice day.

People across America are not having a nice day. When they pull into an Exxon station, when they fill up their

gas tank, it is a bad day, it is a tough day for a lot of American families.

The total combined net profits of the big five oil companies under this administration are $556 billion. How much money did they invest back into more oil wells, more production? About an 80-percent increase in their capital investment, a 300-percent increase in the cash they held back to buy back stock and improve their profitability—not improve their productivity, their profitability.

Investments in alternative fuels by these big five oil companies? Negligible. That is the reality.

I think that is worth a debate, don't you? Isn't that what the Senate is supposed to be about? We come in and say it is time for this to end, it is time for Americans to stop being taken to the cleaners by the oil companies, and it is time for them to pay higher taxes to discourage them from profit taking. I support that position. Others oppose it.

On Tuesday, the Republicans said: No, there will be no debate. And that is the end of the story, at least for this week. We will go home and the voters will ask the same question: What did the Senate do about oil prices, gas prices this week? And the honest answer is nothing.

This is not the first time we faced this filibuster. The Republican filibusters so far in this 2-year session, 75 Republican filibusters and still counting—75. To put it in perspective, a filibuster is when you delay or stop debate on an issue, delay or stop a bill, an amendment, a nomination. It is your right in the Senate to do that. But people were careful not to abuse it in the past.

In the history of the Senate, the largest number of filibusters in any 2-year period of time was 57. So far in this session, with another 6 or 7 months to go, the Republicans have initiated 75 filibusters, 75 attempts to stop progress in the Senate, to stop debate in the Senate, to stop us from moving forward on bills related to everything under the Sun. They even went so far as to filibuster a technical corrections bill. These are the bills that go in and take a hard look and see, oh, we forgot the punctuation or there is a reference that needs to be changed slightly. It is the kind of housekeeping you do when you have huge pieces of legislation, where even though staff works hard and the Members work hard, they miss something. So the technical corrections bill came up, we thought this would be easy, so let's get this over with, but it took a week because we faced a filibuster on it. They wanted to filibuster a technical corrections bill. That doesn't take us to where we need to go as a nation.

We at least owe the American people a healthy, spirited, fair, and open debate on the issue when it comes to this energy crisis. We can't get it in this Senate. We have been stopped. A 51-to-49 Senate does not allow us to come up with the 60 votes we need to move the debate forward. Well, the final vote will be in the hands of the voters of America on November 4. They will decide whether they want change in this town and change in this Chamber; whether they want to elect some people who will come, roll up their sleeves, and get down to work.

We have a lot of things to do in this country—an energy crisis, global warming, carbon pollution, a health care crisis, two wars, a looming recession, and the bankruptcy of Medicare and Social Security. We don't need more filibusters. We need more work right here in the Senate. I hope we can return to that after the next election, or maybe, if there is a miracle, even next week, if the minority party decides that is what will happen.

MEDICARE

Mr. President, we are debating a motion to proceed, once again, to a bipartisan bill to help Medicare. It has the support of AARP, the American Medical Association, and lots of others. It picks up where we left off in December, when we passed a bill that was a short-term fix. We bought 6 months then, and we are back again.

The bill we are considering prevents physicians from facing a 10.6-percent cut in Medicare payments on July 1, and gives them a 1.1-percent payment increase for 2009. The physicians who work under Medicare will also receive a 2-percent bonus, if they participate in a program to reduce the number of errors and improve the quality of their service, called the Physician Quality Reporting Initiative. It is a responsible way to avoid a severe cut in payments to physicians and to ensure payments are adequate for the next 18 months.

As important as it is to ensure that our physicians are paid adequately for the good work they do for millions of Americans—some 40 million Americans covered by Medicare—we didn't want this bill to just be a doctor fix. The bill contains a lot of changes in Medicare that will help beneficiaries.

The Medicare Savings Programs provide financial assistance to low-income Medicare beneficiaries who can't afford Medicare's premiums, copayments, and deductibles. Many low-income beneficiaries are excluded from this assistance because they have accumulated modest savings. These are retired people, by and large.

Today, if you have assets of more than $4,000, $6,000 for couples, you can't qualify for Medicare Savings Programs. We haven't changed that number for almost 20 years—$4,000. Under the bill before us, the asset limit will roughly double, providing real assistance to those who don't have much money and still need Medicare.

This bill, which the chairman of the Finance Committee, Chairman BAUCUS, brings to us, also makes an important move toward mental health parity. It is hard to imagine it has been more than 5 years, almost 6 years since Senator Paul Wellstone died in a plane crash. What a great guy. What a great Senator. His heart was there for so many issues but especially when it came to mental health issues because his family was touched by this challenge. Paul Wellstone used to ask: Why don't we treat mental illness like an illness, instead of a curse? Why don't we treat mental illness like a physical illness when it comes to health insurance? He worked on us and worked on the issue and Senator DOMENICI, a Republican from New Mexico, joined him to make it a bipartisan effort.

I am sorry to say that some 6 years later, we haven't passed that Wellstone-Domenici bill. Senator KENNEDY was working on it before he had his problems. I hope we can return to it. This bill takes a modest step forward in that debate.

Over the years, our understanding of mental health and the ways to treat it have grown, but Medicare continues to discriminate against services for those who are mentally ill by imposing a 50-percent cost-sharing requirement compared to 20 percent for most other services. This bill phases out that higher copayment over 6 years. It is a step in the right direction.

We have made some progress in recent years, adding preventive health services to Medicare, such as screenings for heart disease, diabetes, and cancer, but it literally requires an act of Congress to add a new preventive benefit. The Baucus bill will make it easier to add preventive services to Medicare. It would create a process for the Secretary of Health and Human Services to add them, if recommended by the U.S. Preventive Services Task Force.

We also address market abuses in this bill. There is a program called Medicare Advantage. Private health insurance companies love it. You know why. They make a bundle off these programs. They sell them to seniors, and they charge more than 12 percent over basic Medicare premiums. Frankly, I happen to believe they do not show the results for their effort, and they are involved in some marketing practices which we have to try our best to curb.

Seniors are vulnerable. You know as well as I do that many people who reach their elderly years don't have someone at hand to give them good advice, and many times, frankly, they sign up for things they shouldn't. This bill addresses disturbing reports of abusive and fraudulent sales-and-marketing practices by Medicare Advantage plans and Medicare drug plans. Medicare beneficiaries have been enrolling in private plans they didn't understand, and many of them have faced outright fraud and exploitation by these Medicare Advantage companies. This bill will rein that in.

Senator CHUCK GRASSLEY of Iowa, a man I respect and like, is going to offer an alternative to our bill, which I have described, but it doesn't provide assistance to low-income Medicare beneficiaries. It doesn't deal with mental health parity, and it doesn't ease the process of adding preventive services.

There are many other provisions in this bill. It has been long overdue, and a lot of people have asked us to take up this bill because Medicare is so important at a time when people are losing their health insurance coverage. For the seniors and disabled who count on Medicare, this bill is important. But we need 60 votes. I hope we will get 60 votes. I hope we don't face another filibuster on this critically important bill.

This is something that should pass. This bill is balanced, it provides needed improvements to Medicare, but it is responsible. We fully offset any cost to the Treasury, primarily by reducing overpayments in the private Medicare Advantage plans, which are paid 13 percent—I said 12 percent earlier, but it is 13 percent—more than it would cost to cover someone in traditional Medicare.

I think it is responsible. Rather than adding new costs to Medicare and to the deficit, we pay for it. Pay as you go. In the old days, that used to be called being a fiscal conservative. The other side of the aisle used to be very proud to say they were fiscally conservative. Now, ironically, the table is turned. In fact, it is turned upside down. The Democrats are calling for fiscal conservatism—pay as you go, don't add to the deficit, be responsible—and the Republicans—some—are saying no. I hope they do not prevail. I hope we can prevail with a paid-for bill.

It is a bipartisan bill. Senators SNOWE, ROCKEFELLER, and SMITH have joined Senator BAUCUS. I am going to support it, and I hope all my colleagues do when it comes up for a vote later this afternoon.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from Utah is recognized.

Mr. HATCH. Mr. President, I rise to oppose cloture on the motion to proceed to the Baucus Medicare bill, and there is reason to oppose at this time.

I will keep my comments brief, but I wish to make one point perfectly clear. I have said, time and time again, I am willing to work with my colleagues on the other side of the aisle to get a bipartisan Medicare bill through the Senate. I have always prided myself on being someone who is fair, honest, and who wants to get the job done. Unfortunately, others in this body don't seem to want to get the job done, and that disappoints me more than most of you will ever know.

My biggest frustration is we are not that far apart. Both sides wish to restore physician Medicare payments so doctors are not cut by 10 percent on July 1. We also agree we need to implement the provisions on e-prescribing, electronic health records—where my home State of Utah is the leader—and value-based purchasing for Medicare providers and beneficiaries. We both believe a strong, robust rural health care package is necessary and, therefore, should be included in the Medicare package. Both the Democratic and Republican Medicare bills include marketing reforms for Medicare Advantage plans in order to ensure beneficiaries are treated with respect and are given truthful and helpful information so they may choose the Medicare Advantage plan that best suits their personal needs. Medicare Advantage has worked amazingly well. Democrats want to take the ''pay for'' out of the Medicare Advantage plans, and 90 percent of the people in this country who are on Medicare Advantage want to continue on it because they believe they are better treated. They are, as a matter of fact. It is a system that works. Why change it?

We include provisions that would allow both hospital-based renal dialysis centers and skilled nursing facilities to be sites for telehealth services. As a strong supporter of telehealth services, I am very supportive of this provision, and both bills have it in.

Finally, both bills extend the Special Diabetes Program for 2 more years. This program is very important to me. So as you can see, we agree on a lot. Unfortunately, the two outstanding issues, in my opinion, are Medicare beneficiary protections and offsets.

The Baucus Medicare provisions include provisions that would increase Medicare beneficiary protections in the Medicare Program. It would increase the low-income subsidies for beneficiaries, extend the availability of the ''Welcome to Medicare'' physical examination from 6 months to 1 year.

I wish to make it clear our side could support these beneficiary changes, but we are very concerned about the impact these changes would have on long-term entitlement spending. The prices are going to continue to ramp up all the time, and our friends on the other side don't ever seem to worry about that. With 76 million baby boomers retiring over the next three decades, the Medicare Program is already headed for serious fiscal disaster. So we need to be thoughtful about these provisions and not just do what our colleagues on the other side want to do.

Therefore, we believe it makes sense to means test the Medicare Part D beneficiary premiums for higher income beneficiaries. Although my friends on the other side are constantly arguing that the rich don't pay their fair share, unfortunately, when we suggested this, colleagues on the other side of the aisle—and, in fairness, some on our side as well—objected to means testing Part D premiums. I do not understand their objections.

We already means test Medicare Part B premiums, and that had bipartisan support. Making that change would not only have wealthier beneficiaries shouldering a greater share of their Part D premiums, it could also pay for some of the beneficiary protections included in the Baucus Medicare bill.

It is greatly disappointing to me that our friends on the other side of the aisle are not willing to accept this offset. In fact, we have been told point-blank that they cannot support increasing Part D premiums for rich Medicare beneficiaries in order to provide more assistance and benefits to lower income seniors. That is despite the fact that they have cut some very serious programs for the poor in order to find offsets for some of the things they want to do. I am going to say it again. I do not understand it. Especially since both sides supported means-tested Medicare Part B premiums.

Hopefully, we will be able to change their minds when we begin our work to improve the Medicare Program so it will be more efficient for both beneficiaries and providers. That is the reason why we should vote against cloture, so our friends on the other side have to come together with us to have a better bill, and I believe we can.

The second major issue concerns the offset used in the Baucus bill to pay for its provisions. The White House has told us, time and time again, the President will only be able to accept very minimal reductions to the Medicare Advantage Program. Time and time again he has said that. Otherwise, he is going to veto the bill.

That is why Senator GRASSLEY and I have insisted the White House be included in the Senate Medicare negotiations. We do not want to send a Medicare bill to the White House that is going to be vetoed and, therefore, put the physicians' Medicare payments in jeopardy. It is another reason to vote against cloture, so we don't go through the charade we will have to go through if we don't.

But that is exactly what is going to happen if the Baucus Medicare gets cloture today. It will probably pass the Senate and then be considered by the House of Representatives. The House will make changes to the bill, too, that will probably not be acceptable to the White House. Then the Senate will have to consider the Medicare bill with the House's changes before it is sent to the White House for a certain veto. It is ridiculous. Why do they have to do a partisan bill? Why not work with us, since we want to work with them?

We will not have the votes to override the President's veto of the Medicare bill, so we will be back to square one and we will have wasted a lot of time and maybe even have done some very bad damage.

I believe the Grassley Medicare legislation, which I strongly support, would not suffer the same fate as the Baucus legislation. That is why I believe this bill should be considered by the Senate instead of the Baucus Medicare bill. We are so close together on almost all these provisions, except for these few I have mentioned. The Grassley bill is a better bill. The President will sign it into law.

I would like to take a moment to highlight the major differences between the Grassley Medicare bill and the Baucus Medicare legislation.

On this chart, first, as you can see the Grassley Medicare bill encourages e-prescribing sooner rather than later.

The Grassley bill requires physicians to e-prescribe by 2010, while the Baucus bill delays mandatory e-prescribing until 2011.

In addition, the Grassley Medicare bill repeals the Deficit Reduction Act provision on the transfer of ownership of oxygen equipment to Medicare beneficiaries. The Baucus bill cuts Medicare payments for oxygen and oxygen equipment. It is somewhat shocking to me, but that is what they do.

On durable medical equipment for competitive bidding, the Grassley bill includes a sense of the Senate to delay competitive bidding for durable medical equipment for 18 months. The Baucus Medicare proposal as filed does not even address competitive bidding.

Let's go to chart No. 2.

The Grassley bill also has provisions on hospital value-based purchasing. The Baucus Medicare bill does not include a similar provision. You would think we would want to go to hospital value-based purchasing.

The Baucus Medicare bill reduces the Medicare reimbursement rates for power wheelchairs, of all things. The Grassley Medicare bill does not cut Medicare payments for power wheelchairs. You would think we could get together on that.

The Grassley Medicare bill provides continued relief for hospitals with high numbers of undocumented individuals. The Baucus bill does not include a similar provision. Again, as anybody can plainly see, the Grassley bill is a better option.

I am going to conclude with one very valid and important point. My colleagues need to vote against cloture today so we can begin work on a bipartisan bill that will be signed by the President. We do not need to be wasting our time going back and forth on a bill that does not have a chance of becoming law. In fact, we need to roll up our sleeves and get to work immediately so we can get this legislation to the White House before the July 1 deadline. Otherwise, our Medicare beneficiaries and doctors participating in the Medicare Program will lose. But you know who the biggest loser will be in this process. That is the Senate, because we have failed to do our job, therefore letting down both Medicare beneficiaries and Medicare providers.

I urge my colleagues to vote against cloture to avoid this terrible situation and to take the more appropriate, better designed, and more compassionate bill. Frankly, that is what our bill is. I just hope our colleagues will see this and vote against cloture.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TESTER). Without objection, it is so ordered.

HABEAS CORPUS

Mr. BINGAMAN. Mr. President, I will speak very briefly here to call to the attention of all Senators the very important decision that was just handed down this morning by the Supreme Court regarding the prisoners who are detained in Guantanamo.

The Supreme Court has once again rejected the administration's approach in disregarding basic due process rights and our Nation's longstanding commitment to the rule of law. The Court, in a decision written by Justice Kennedy, held that individuals detained at Guantanamo have a constitutional right to challenge their prolonged detention in civilian courts.

Furthermore, the Supreme Court found that the Military Commissions Act of 2006 amounted to an unconstitutional suspension of the writ of habeas corpus. The Court today reiterated that the Great Writ, the writ of habeas corpus, remains as a fundamental protector of individual liberty and as a safeguard against arbitrary detention by the Government. This right, which is enshrined in our Constitution, simply allows for an independent and meaningful review of a person's confinement by the Government.

Nothing in today's decision requires that the Government release the prisoners held at Guantanamo. Many of those prisoners have been held there for over 6 years without access to meaningful judicial review. The decision simply allows these individuals to ask a court whether their continued confinement is in accordance with our Constitution.

The President has asserted extraordinary authority to indefinitely imprison anyone he designates as a so-called enemy combatant—that would include U.S. citizens, according to the administration's legal position—and that that detention could continue without any judicial review.

It is time that we change course and recognize that acting in a manner consistent with our Constitution and with our core American values is not a sign of weakness.

It is a sign of our strength and a sign of who we are as a people. I am very pleased that our highest Court has reaffirmed our Nation's respect for the rule of law and sent a clear message that the Constitution remains strong.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I was just visiting with my colleague from New Mexico. I was unaware of the Supreme Court decision this morning. But the decision by which they have overturned some legislation that retracted the right of habeas corpus for those who might be suspected of some sort of illegal activity and so on in this country, that decision by the Supreme Court is a very important decision.

I could not believe when the Senate passed a piece of legislation saying that someone who is apprehended or detained in this country would not have the right of habeas corpus. That is a different kind of country than I know. There are countries in this world where they can pick you up right off the streets and say: Do you have papers? Even if you have papers they can throw you in jail, and you have no right to anything, including filing a writ to say: A government cannot hold me. A government must prove there is reason to hold me.

That is unbelievable that this Congress it—not with my vote. But I commend the Supreme Court. I haven't had much opportunity to do that recently, I must say. But their ruling this morning gives me some hope.

Mr. President, we have a cloture vote at 3 o'clock this afternoon. I wanted to mention the important subject of the cloture vote is dealing with some Medicare changes.

Medicare is an unbelievably important program. Prior to Medicare, not many people look back and remember this because most of us have lived our lives with Medicare in existence. Before Medicare, one-half of the American senior citizens had no health insurance at all. Does anybody think that an insurance company says: You know what. We have a new business plan. Our plan is we want to find people who are old and provide health insurance for them. That is not the way a business plan works. If you are selling insurance, you like to find somebody young and healthy.

As a result, if you go back to the 1950s, early 1960s, you will find that one-half of senior citizens of this country had no health coverage. Now, it is a very small percentage that have no health coverage. The vast majority of American senior citizens are covered by Medicare. It is a good program.

I grew up in a little town of 300 people. We had a guy named Doc Hill, Dr. Simon W. Hill. He came into town and he stayed until he died. He practiced medicine. We did not have a Medicare Program, but he tried to give everybody whatever health care they needed. He tried the best he could. We had no lawyer in our town, so he was never sued. He pulled the tooth of my neighbor. He was not a dentist, but he was a doctor. The neighbor had a terrible toothache, we were 50 miles from the nearest dentist, so Doc Hill pulled his tooth. It turns out he pulled the wrong tooth. But, you know, the fact is, Doc Hill did the best he could. He practiced medicine in my hometown. I think he delivered close to 2,000 babies decade after decade after decade. He ran his own Medicare and Medicaid Program. If you did not have any money, you got health care to the best he could give it.

If you had money, he would charge you an arm and a leg. If you had 24 fryer chickens, he would take that; maybe a quarter beef, maybe half of a hog—whatever it was, he ran a program in a little town.

Well, that is all gone. That does not exist anymore. The fact is, we now have a Medicare Program that serves America's senior citizens with health care and says to them: If you get sick, here is a program that is to provide some help to you.

Now, my colleague, Senator BAUCUS, and the Finance Committee have brought a piece of legislation to the Senate floor, and we have to have a cloture vote on it this afternoon because the other side is objecting. My hope is that we will have sufficient votes this afternoon to advance this bill.

It makes some changes in Medicare that need to be made because we are bumping up against a deadline at the end of this month. Among other things, it reauthorizes the special diabetes program. That is something in which Senator DOMENICI from New Mexico and I have been involved. We have introduced some reauthorization legislation here.

The diabetes issue is a scourge in this country. I chair the Indian Affairs Committee in the Senate, and the fact is, we have some areas on Indian reservations in this country where 40 or 50 percent of the adult population are affected by diabetes. Go there and go to their dialysis units and see all of them sitting hooked up to dialysis units. Then see how many have lost their legs through amputation. See how many of them have early heart disease as a result of their diabetes. This piece of legislation by Senator BAUCUS and the Finance Committee begins to address some of those issues.

It also makes reforms to what is called the Medicare Advantage Program. Now, some of my colleagues have come to the floor and said, well, this bill cuts Medicare. That is total rubbish. This does not cut Medicare. It takes one portion of Medicare, called the Medicare Advantage Program, which pays more for healthcare as opposed traditional Medicare.

This is one of those little pilot programs that some in this Chamber wanted, so they seeded it with extra funding. Well, the extra funding has been a waste of money, a tragic waste of money. And this gets some of the waste and abuse out of it. If my colleagues are upset about getting rid of waste and abuse, I am sorry. Maybe they will not sleep very well if we pass this bill. But the fact is, when we see waste and abuse, we ought to go after that. That is what the Finance Committee and Senator BAUCUS have done.

They have used that funding they have achieved by getting rid of some waste and abuse in the Medicare Advantage Program. They have used that funding to address some other urgent issues.

If we do not do anything by the end of this month, we will see a 10-percent cut to physician payments. Well, physicians in my State are already at the bottom of the wage index on physician payments. And the fact is, a 10-percent cut would be devastating to senior citizens in my state who rely on Medicare. It seems to me we should not be doing things that will predict a degradation of health care. We should not be doing those things.

The Finance bill and Senator BAUCUS have brought a piece of legislation to the floor that avoids that 10-percent payment cut and establishes a 1.1-percent increase instead through fiscal year 2009.

It is the right thing to do. Now, if you decide you do not want to vote for cloture, to even allow this to proceed, then you are saying: You know what, just whack these programs. It does not matter what kind of health care exists in our States. It does not matter what happens to the senior citizens.

If that is your view, you know, God bless you. But it is sure a far cry from my view. I think we have responsibilities to make Medicare work, to provide decent funds for the providers so that our senior citizens have health care that all of us can be proud of.

There are many other features in this piece of legislation that are important. It talks about prompt payment to Main Street pharmacies. We have drugstores and pharmacists on the Main Streets across this country that are not getting the kind of prompt payment they should get. And some of them are threatened with the closure of their business because we have a system that is not reimbursing them as it should.

It improves access to telehealth, which is very important. This is a rather new form of delivery of health care, and Medicare is a part of it. It works. I have been in clinics, and I have seen the delivery of very sophisticated CAT scans and the delivery of x rays to a radiologist 150 miles away to get a reading and to be sent back to that rural clinic.

All of that makes a lot of sense. It gives us access to some of the best in the country through telemedicine. Then, in addition, the telemental health part of that is an opportunity for psychologists and psychiatrists to be engaged in telemental health, particularly on Indian reservations and elsewhere, where we have some of the highest rates of suicide any place in the country. Accessing telemental health services can be very important.

On the northern Great Plains—I know the Presiding Officer is from Montana. In Montana, North Dakota, on the northern Great Plains, the rate of suicide among Indian youth—I am talking about Indian teens—is not double, triple, or quadruple the rate across the country, it is 10 times the national rate. That is why telemental health is so important for all elements of our population, but also especially in Medicare for senior citizens. We are doing it in other areas. Extending it to Medicare makes a great deal of sense.

The improvement of the quality of health care in Medicare, the prevention of the 10 percent in payment cuts to physicians, the diabetes prevention program, the elimination of the wasteful payments to Medicare Advantage, are just a few of the examples of why we must expect our colleagues will vote for cloture at 3 o'clock this afternoon. This is the right vote. It is an important vote.

Now, we have been through—yesterday it was energy, with gas at $4 a gallon, and oil at somewhere around $130, $140 a barrel, the minority decided to embrace once again their just-say-no policy on everything. It does not matter what it is, just say no.

It reminds me of an old codger in his eighties who was once asked by a news reporter who said: Well, you have been around a long time. You must have seen a lot of changes in your life.

He said: Yeah, I have been against all of them.

We have people on the floor of the Senate who have decided they are against everything—just say no. My hope is after just saying no yesterday to energy issues at a time when gas is $4 a gallon, it is unbelievable to me they would just say no to begin addressing that, but they did.

My hope is that today, on behalf of health care for senior citizens, they would finally decide to just say yes. If they will do that at 3 o'clock, we will pass this cloture petition and we will take what the Finance Committee and Senator BAUCUS have offered in the spirit of improving Medicare and saying to senior citizens and saying to their health care providers: We are going to do the right thing.

There is a time urgency. By the end of June we have to solve this matter. And I hope my colleagues will be listening and understand that we need this cloture petition to prevail at 3 o'clock this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. I so appreciate the Senator from North Dakota and his comments about the just-say-no philosophy around here. I have been in this institution only 15 months. I have seen his leadership on a whole host of issues, and I have also seen the disappointment that it is one filibuster after another—74, 75 filibusters, more than anytime in Senate history—on such commonsense legislation as the Energy bill yesterday and the Medicare bill today.

I am happy to see that Senator BAUCUS and Senator REID have brought the Medicare Improvements for Patients and Providers Act to the Senate floor today. It is crucial not just immediately for physicians and hospitals, not just immediately for patients, most importantly, but it is also crucial to the future of Medicare.

The bill not only prevents a 10.6-percent cut to payments for physicians

and other health care professionals, it gives these providers a small payment increase. The cost of providing health care has increased; payments to health care professionals should increase too.

Our history with Medicaid should teach us about the importance of preserving Medicare by keeping payment rates viable for providers. Inadequate Medicaid payment rates have compromised access to dentists and other health professionals. I visited with the dental unit at Children's Hospital in Columbus and talked to dentists all over the State, talked to hygienists and others. It is pretty clear that we do not have enough dental care, we do not have adequate dental care, especially for low-income young patients. The reason is we do not have adequate reimbursement for dentists to provide Medicaid dental care, particularly for those children. We need to fix that Medicaid problem, not recreate that same problem in Medicare.

This bill is about so much more than provider payment, as Senator DORGAN said. It contains important measures to improve Medicare for beneficiaries. It increases subsidies for low-income patients. It invests in preventative health care. It reduces out-of-pocket costs for mental health treatment.

Senator DURBIN spoke of Senator Wellstone's work and Senator DOMENICI's work on mental health treatment; to treat it like a disease not a stigma, and how important that is. This makes some downpayment on that solution.

This bill eliminates late enrollment penalties for Part D and modernizes Medigap policies. It bolsters rural health care, something I have discussed in my roundtables around Ohio. I have done some 90-plus roundtables in 65 counties and seen how inadequate rural health care is in rural areas of my State, as it is in the Presiding officer's State of Montana. The bill authorizes a special diabetes program.

This morning in my every-Thursday-morning coffee, which I have for Ohio residents in Washington, I met with Ohioans from Cincinnati, Columbus, Toledo, and Cleveland. Ohio's children are suffering from type 1 diabetes. They told devastating stories. One man told about his teenage daughter going blind. Another told me that by the time a young child with diabetes turns 18, she will have endured more than 30,000 shots.

Diabetes is one of the most prevalent and pressing health threats we face as a nation. The cost to the health care system is more than any other single disease. Reauthorizing the cost-effective Medicare diabetes program serves patients and taxpayers.

The bill has other crucial provisions. It exempts the value of life insurance from counting against seniors attempting to qualify for the low-income subsidy in Part D. Constituents have written to me telling me they are afraid of saving for the future, of all things, because they might lose their eligibility for subsidized drugs. What kind of system is that? This bill will help fix that.

One of the most common stories I have heard in my 90-plus roundtables, where I convene meetings of 15, 20, 25 people and ask them questions for an hour and a half, 2 hours, and we talk about their hopes, dreams, and problems, and where we, as a Senate, might be able to work with them and make their lives better, one of the most common stories I hear from Defiance and Gallipolis, from Middletown and Ashtabula, whether I am meeting with providers or patients, is about Medicare. My office receives thousands of constituent letters about Medicare. I recently heard from an infectious disease doctor in Lima, who explained how he is squeezed by current Medicare rates. He said:

> As health care costs have escalated and reimbursement has fallen, we have had to make some hard decisions.

He told me he has had to let go of employees, cut office hours, and that the financial stress is at the breaking point. He said:

> Last year, a doctor would call me [about a patient] with an infected abscess. Commonly, I had the patient sent to my office, lance the boil, pack the wound, and give IV antibiotics daily in my office until transitioned to pills. The patient was never admitted to the hospital.

Since his office is less and less able to provide outpatient services—remember, I said he had laid people off—similar patients are now admitted to the hospital. What happens?

''The admission day alone,'' he says, ''costs more than the entire course of therapy in my office.''

It is obvious how inefficient and expensive this is. We need to fix the current payment system, and we will. But we should not grossly underpay those professionals while we work on a better system. Until that day, we should pass this bill. Medicare is one of the great accomplishments of our Government and of our country. Senators DORGAN and DURBIN both talked about in 1965, half of America's seniors didn't have any health insurance. Today that number is less than 1 percent. Because Medicare is one of the great accomplishments of our Government and our country, we have to preserve it. This bill takes major strides to do so.

In addition to voting yes at 3 o'clock on cloture, there has been another piece of related legislation I want to speak on for a moment. It is the alternative bill offered by Senator GRASSLEY, who I think is one of the single best legislators in this body. The bill he wrote as an alternative to our bill, to the Baucus legislation, perpetuates a shameful politically motivated subsidy program that overpays private insurance health maintenance organizations to the tune of $10 billion a year. What this does is it overpays private insurance companies, undercutting fee-for-service traditional Medicare, causing taxpayers—requiring taxpayers—to give huge, frankly, unearned dollars to these insurance companies as they try to privatize Medicare. The Baucus bill redirects these taxpayer-funded windfall payments from HMOs to concrete improvements in the Medicare Program.

In the beginning of my speech, the first 6 or 7 minutes, I talked about improvements we are making in the Medicare Program. We are able to do so by taking money away from the private for-profit Medicare HMOs that have reaped a windfall in the last 10 years as this Congress, particularly the Republican House and Senate for most of the last decade, shoveled more and more public dollars into these private insurance programs, these private HMOs, and private HMO executives have had grossly inflated salaries and benefits and retirements, all of that. Ending those gratuitous overpayments to HMOs should not be an option for this Congress; it should be an imperative that we finally do that.

Taxpayers can't afford to coddle private, for-profit health maintenance organizations, and we can't continue to do it. I encourage my colleagues to vote for the very crucial Baucus Medicare legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, you don't have to be an expert in health care policy to know that our health care system is in need of reform. Today we spend $2 trillion on health care or almost $7,500 per person. In 10 years, national health care spending is expected to reach $4.3 trillion. That is more than double or $13,000 per person, which would comprise almost 20 percent of our gross domestic product. Clearly, this rate of growth is unsustainable. While we should be enacting legislation to address this health care crisis, Congress is once again bogged down in debate over how to prevent physician payment cuts from going into effect. Meanwhile, the sustainable growth rate, the SGR, which is the formula for these Medicare payments to physicians, has only increased costs, decreased beneficiary access and quality of care, and discouraged future generations of physicians, especially in primary care.

If Congress fails to act, Texas physicians will lose $860 million between July 2008 and December 2009. That is $860 million which is a cut of $18,000 per Texas physician. That figure balloons to $16.5 billion by 2016, due to nearly a decade of scheduled cuts. It is great that Members of Congress and outside coalitions are presenting health care reform plans, but they are ignoring the fundamental problem. You can have a great plan. You can have great coverage. But none of that is any good unless you have access to that coverage.

Physicians' reimbursement cuts have been looming over our heads for years; in fact, since 1996 and the passage of the Balanced Budget Act. Yet Congress continually decides to put off for tomorrow what desperately needs to be done today. So every year Congress

cuts segments of health care services, either rightly or wrongly, to prevent these cuts. I firmly believe—and physicians in my State firmly believe—that short-term fixes are not the solution. This last one was a 6-month fix which will expire shortly. I don't know anyone else in the private sector, whether they be a physician or a small business, who can continually plan based on the vagaries of a 6-month fix, without knowing whether they will simply be put out of business or what the Congress will come up with as a solution on a 6-month basis. We need a longer term solution, in other words. We can't address greater health care costs until we fix the mess caused by the SGR or the sustainable growth rate formula for Medicare reimbursements.

Over 3 months ago, in anticipation of the looming physician payment cut set for July 1, I introduced legislation that addressed the issue at hand permanently. Even the proposal we will vote on at 3 is only good for 18 months. I think we need a permanent solution. My legislation is entitled Ensuring the Future Physician Workforce Act of 2008. It provides positive reimbursement updates for providers. It eliminates the ineffectual expenditure cap known as SGR, and it increases incentives for physician data reporting. At the same time this bill facilitates the adoption of health information technology by addressing costs and legislative barriers. It educates and empowers physicians and beneficiaries in relation to Medicare spending and benefits usage and studies ways to realign the way Medicare pays for health care.

My bill doesn't mandate whether physician payments should be based on utilization, performance, care, coordination, or any other particular methodology. My bill does start to lay down a new path toward reform, innovation, and restoration of the eroded physician-patient relationship. It does say that providers and beneficiaries should not be the ones to be punished by Congress's inaction.

Why Congress decided in 1996 to try to balance the budget on the backs of health care providers is beyond me. Because beyond the challenges that presents to the health care providers, it has diminished access to health care. More and more physicians refuse to take new Medicare patients, because the reimbursement rates are simply so low. In Travis County, where Austin, TX is located, there was a story published in the Austin American Statesman that said only 18 percent of physicians in Travis County are accepting new Medicare patients. I would like to say that was an isolated incident, but it is not.

This is a huge issue and deserves serious and thoughtful deliberation. The last time the majority party held a hearing on physician payment reform was almost 16 months ago, almost exactly a year before I introduced Ensuring the Future Physician Workforce Act of 2008. Yet there has been zero legislative activity, let alone introduction of language addressing this critical issue from a long-term perspective. Again, we have been stuck in the same old rut of coming up with temporary fixes, including the 6-month fix that will expire on July 1.

I am disappointed in Congress's inaction in this regard. I do believe that Congress needs to do more than simply kick the can down the road for another few months and put off a solution that we ought to be working toward on a bipartisan basis and embracing today.

My colleagues on the other side of the aisle have missed a major opportunity to take positive steps forward. They presented a bill, unfortunately, on which we will vote at 3 o'clock, that bypassed the committee, ignored the importance of bipartisan input and contribution, and they are determined to have a vote on a bill that they know has no chance of becoming law. Because as we all know around here, no bill has a chance of becoming law unless it is truly a bipartisan product. The rules and traditions of the Senate guarantee that. That is one of the things that makes sure that when we vote on things, they have broad support, represent a consensus position, and that they are, in the view of the vast majority of Senators, in the best interest of the American people. But when you try to force a bill that is strictly partisan, that has very little bipartisan support, we know what will happen. That is what is going to happen this afternoon on this vote: It won't become law.

The American people were promised a different way of legislating by the majority when they took power. But we have seen, unfortunately, this sort of gamesmanship occur time and time again. I heard Senator SCHUMER, the Senator from New York, chairman of the Democratic Senatorial Campaign Committee, rail against obstruction of their legislative agenda. But it is almost a sure thing, when all you do is take a partisan position on legislation and you refuse, as the majority leader has done, to allow an amendment process, as he did last week on the climate tax bill, and you deny full and fair debate, it is virtually a guaranteed result of failure when you take that sort of approach to legislation. That is what is going to happen again this afternoon.

Because the chairman of the Finance Committee has chosen to take a partisan approach on this legislation, we have come up with an alternative that offers solutions to physicians, seniors, and taxpayers. This alternative will provide doctors with a positive increase in their reimbursement rates, extend critical programs, and reform payments to Medicare Advantage plans, and also implement many other necessary changes to the Medicare Program. This alternative legislation includes provisions for e-prescribing, closely mirroring legislation I cosponsored earlier this year.

We need to change our ways in the Senate. Rather than trying to check off a box saying, yes, we threw it up, a partisan effort we knew was going to fail, and now we can claim we were the champions of reform, while the ones who would not allow this partisan process to go forward are obstructing it, we need to get together and work in a bipartisan way to ensure that Medicare beneficiaries not only have the coverage they need and deserve but also the access which is guaranteed by a fair rate of compensation for physicians.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

HABEAS CORPUS

Mr. LEAHY. Mr. President, while I was chairing a Judiciary Committee meeting today, I received notice of the Supreme Court's ruling this morning in Boumediene v. Bush. I normally do not come to the floor to talk about Supreme Court rulings, whether I agree or disagree with them, but this one is of fundamental importance to all Americans, and I wish to take just a moment.

We Americans know there is nothing more fundamental than the right of habeas corpus—the right to challenge your detention by the Executive as unlawful. It was part of our reason for fighting a revolution. It is enshrined in our Constitution. We have preserved it through two world wars. We cherish it as something that has set us apart from so many other countries around the world.

This administration has tried repeatedly to push the limits of Executive power, including its effort to extinguish the Great Writ for certain detainees. In three separate decisions, a conservative U.S. Supreme Court in recent years has rejected this administration's erosion of fundamental rights. I applaud the Supreme Court for doing that because these protections set the United States apart from those who wish to harm us.

Today's decision repudiating the administration's efforts to curb judicial review of detainees echoes earlier court decisions that have solidified our constitutional system of checks and balances.

The administration has rolled back essential rights that have long guided our Nation's conscience. The administration has acted as though the President—and the President alone—can decide the rights of Americans.

But the Great Writ has kept us strong as a nation from the time we fought a Revolution. We fought that Revolution to say that we will protect our own rights and we will set up three branches of Government to do so, including an independent Federal judiciary.

Today's Supreme Court decision in Boumediene v. Bush is a stinging rebuke of the Bush administration's flawed detention policies. It is also a vindication for those who have argued from the beginning that it was unwise as well as unconstitutional for Congress, at the administration's request,

to try to override a core constitutional protection.

A majority of the Court has ruled that the constitutional right to habeas corpus extends to territories, including Guantanamo Bay, Cuba, where the United States exercises de facto control. The Court further held that the administration's detention procedures used at Guantanamo Bay are a constitutionally inadequate substitute for habeas corpus rights. Therefore, the provisions of the Military Commissions Act that stripped away the habeas rights of detainees held at Guantanamo Bay are unconstitutional.

As a result, those detainees who have been determined to be ''unlawful enemy combatants'' are entitled to seek habeas relief in Federal courts, just as they had been doing before Congress' ill-advised decision to endorse the administration's detention policies through passage of the Military Commission Act in 2006. No detainee is set free as a result of this decision. Rather, detainees will simply be able to challenge their detention before a neutral, life-tenured judge.

The Court's 5-to-4 decision sustains the long held and bipartisan belief that I and others have always maintained: Congress made a grave error when it voted to strip habeas corpus rights in the run-up to the 2006 mid-term elections, and leave in place hopelessly flawed procedures to determine whether detainees could be held indefinitely with no meaningful court review, merely by the President's decree.

I have said many times on the floor of this Senate that we are the conscience of the Nation. Certainly, part of our job is to uphold our Constitution. It is easy to uphold our Constitution when we see no threats on the horizon. It is more difficult but even more important to uphold it when we do see threats on the horizon. So Congress, as I said, made a grave error in trying to diminish habeas corpus, and I am gratified that today's Supreme Court decision takes a significant step in reversing that action.

Mr. President, the Great Writ—the Great Writ of habeas corpus—protects you and protects me. It protects all 300 million Americans. It protects people who look to the United States to be a beacon of freedom. I am grateful that the Supreme Court believes, as I do, that this fundamental right must be preserved.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY

Mr. COLEMAN. Mr. President, I rise to speak about the rising cost of energy, at a time when Americans are suffering from gas prices that are seeing $4 a gallon and diesel fuel is higher than that. The price of diesel fuel has gone up 65 percent from where it was a year ago. That impacts farmers, it impacts small businesses. The Medicare bill is a critical issue, but right now we need to address the impact the cost of gas and energy is having. It is having a devastating effect on folks as they sit around the dining room table trying to figure out how to make ends meet. It is getting tougher and tougher to find money for food and fuel. I wish to say up front that the principal culprit right here is our addiction and our dependence on foreign oil.

My folks in Minnesota—families, farmers, and businesses—can't afford these rising costs. They are talking about commodity prices rising. On the other hand, the cost of commodity prices is rising because of the cost of oil. The cost of energy, gas, and diesel on those folks who are producing the food is having a devastating impact.

My State has one of the highest housing foreclosure rates in the Nation. The State of Minnesota is always seen as being somehow outside the economic woes that affect so many. The unemployment rate is going up, not down. Record fuel costs are the final straw for a lot of folks. It should be the final straw for partisan bickering on energy that is getting us nowhere and is letting the American people down.

Mr. President, 232 years ago yesterday, Thomas Jefferson, John Adams, Benjamin Franklin, and other Founders were set to work by the Continental Congress on a document that set America on a new course, just as the American Army was retreating from the British to Lake Champlain.

The invasion we have today is the invasion of hundreds of billions of dollars of foreign oil. This year nearly a half a trillion dollars will be sent overseas for energy we should be capable of producing at home. This is America. We should have the technological ability, the capacity, and the resources to end that addiction. The fact is we are being held hostage by a world oil market where much of the supply is controlled by thugs and tyrants such as Chavez and Ahmadinejad.

Just as the Founders, we have a choice. We can focus on our differences as Republicans and Democrats or we can work together to fight a common foe. Are our differences greater than those of the colonists, most of whom had never been outside their home States? We know that is not true.

Now is the time to write our own declaration of independence. Now is the time to use every resource at our disposal to address this energy crisis.

Now is the time for us to declare that American freedom, liberty, and security are not going to be held hostage over a barrel of oil. That is what it is about. It is about being held hostage. We may in the future always import foreign oil, but we are being held hostage by our dependency.

Our Nation's future depends on the decisions we make right now. The good news is that we possess the resources to take our energy prices head on. If we were, in fact, to make that commitment, we could stand up and say we are not being held hostage anymore. July 4 is just around the corner. If we were to do that, I think it would have a dramatic impact on speculation because they would know America is now committed—Democrats and Republicans—to doing the right thing. It is simple: renewables, increased production, and redoubling of our clean energy technologies efforts.

To make this happen, we not only have to transform how we do energy in this country, we have to transform how we do business in the Senate.

On Tuesday we had a contentious vote on an energy package that wasn't a bipartisan product. I voted to go forward on the debate of that package because I believe we must get going on a new energy bill. However, I think the only thing yesterday's process was set up to deliver was finger pointing. We must sit down together, Democrats and Republicans, and find out what policies we can agree on and then send an energy bill to the President.

The energy bill proposed by the other side of the aisle includes many ideas we have seen before. I am reminded of a quote by H.L. Mencken, who wrote:

> There is always a well-known solution to every human problem—neat, plausible, and wrong.

I believe we need to stop rehashing ideas that don't get to the heart of the problem and begin an energy revolution by dramatically increasing production of every energy resource at our disposal. I still don't support drilling in ANWR. We have the opportunity, though, to do deepwater exploration off the Outer Continental Shelf and tap into substantial resources. That is increased production. We had the worst natural disaster in the history of this country, Hurricane Katrina, and there wasn't a drop of oil spilled, so there shouldn't be an environmental issue there to increase production. We need to dramatically increase investment in renewable fuels. I support that. It is critical to my State. Energy efficiency, boost nuclear energy production, and take advantage of coal to liquids—coal to jet fuel.

This week I have been listening to my colleagues speak about energy. Some say what we need is more efficiency. The others say we need more renewables in nuclear, oil, and gas development. I believe we need all of those sources of energy. I don't think our debate should be about whether to drill or whether to tax those who drill. You are not going to increase production by simply taxing the oil companies. That is not going to solve the problem. It may make a political point somewhere, but it is not going to solve the problem. Instead, I believe the answer to breaking through our energy crisis and our political energy logjam

is to couple domestic oil and gas development with responsible environmental protection—you can do both—to fully utilize the clean energy technologies at our disposal, such as nuclear, while we look to emerging technologies, to grow more fuel on the farm and save energy at home. We need to move forward with at least the potential of cellulosic ethanol.

Today I have introduced an energy bill, the Energy Resource Development Act of 2008, that I hope will foster the bipartisan discussion we need to have. It is not about holding my idea of the perfect energy bill in the air, pointing a finger and saying: This is what they won't do. No, this bill is about asking the other side what we might be able to do together.

Here is what I think we can do together: We could open the Outer Continental Shelf to oil and gas development outside of Florida in a way that protects the economy, the environment, and the economy of States in new development areas. There is an estimated 2.8 billion barrels of crude oil and 12 trillion cubic feet of natural gas that could be produced between now and 2025 in areas currently under moratoria. If developed, this could reduce America's trade deficit by $145 billion by offsetting oil imports.

We must open development in a way that recognizes that many States are opposed to opening development in the Federal waters off their coasts, which is why my bill does not allow the Federal Government to allow development unless the State's Governor approves of the plan. And, to get the discussion going between the Secretary of the Interior and the Secretary of Defense and coastal Governors, this proposal will give the Governors an opportunity to make a counterproposal and to propose long-term protection of Federal waters off their shores. The Federal Government can then accept this proposal and begin negotiation with the Governor. The idea is to move past the take-it-or-leave-it approach to Outer Continental Shelf development and provide States the authority and process they need to make a deal that protects their economic and environmental interests.

My bill would require that an oil company holding an OCS lease develop the oil and gas on that tract in a reasonable timeframe or lose the right to develop that area. Existing leases that come up for renewal will face the same limitation.

No. 2, this proposal would create an energy independence trust fund to be funded with the Federal share of additional royalties that would be collected when more of the Outer Continental Shelf is opened for development. This trust fund, which could receive tens of billions of dollars from new royalties, would go to fully fund all renewable energy, energy efficiency, research and development, and technology deployment programs from the Energy Policy Act of 2005 and the Energy Independence Security Act of 2007. We have made a big commitment to new technology in past energy legislation. This is a way to fund it. This would make sure programs we already have on the books to develop technology such as fuel cells, hybrid vehicles, solar, wind, advanced batteries, building efficiency—the list goes on and on—are fully funded. We want to make sure they are fully funded.

Additionally, the fund will provide resources for a new ethanol pipeline loan guarantee program and provide new nuclear energy production incentives.

No. 3, the bill would utilize our 250-year supply of coal by creating a new standard of production of fuel from clean coal, often called coal-to-liquid technology. My bill would take a new approach by tightening the environmental standards required of this fuel.

No. 4, my bill would recognize the fact that nuclear energy is one of America's energy solutions as it provides an affordable, zero-emissions source of energy. The French are not braver than we are. Close to 90 percent of their energy is nuclear. This proposal will improve the loan guarantee for nuclear production, create a nuclear production tax credit, and increased training for the nuclear workforce.

I believe these measures do a great deal to address our current energy crisis. But I promise my colleagues I am open to their ideas and initiatives as well. The only thing I am not open to is more political gamesmanship and bickering.

The American people want and need bipartisan energy legislation that goes to the root causes of our energy problems. I urge my colleagues to consider this proposal. I urge my colleagues and leadership on the other side of the aisle to sit down with a bipartisan coalition. I urge all of us on my side of the aisle to sit down and put together a bipartisan coalition that will produce a bill that truly transforms how we do energy as we, as Senators, work together for the American people.

That is what they are looking for right now. They are frustrated. They are scared. They are facing economic stress. They are looking to us. We have a responsibility to put the gamesmanship aside, put the ideological divide aside, and figure out a way—can't we do renewables? Can't we do conservation? Can't we do production? It doesn't mean drilling in every corner of the universe.

If there ever was a moment for us to come together as a nation to protect and preserve our freedom and our liberty, that moment is now.

Mr. President, I yield the floor and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that I be allowed to speak for up to 7 minutes. I know it is unusual, but I ask unanimous consent that the time be charged to the Democrats.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I rise today to speak on the issue of Medicare reimbursement for doctors. Doctors are reimbursed through Medicare by a formula known as the sustainable growth rate, SGR. Due to the formula's methodology, it has mandated physician fee cuts in recent years. This has forced Congress to place a band-aid over the possible cuts that doctors and their practices have hanging over their heads.

So every year, or now 6 months, doctors must come to Washington, DC and plead with their Representatives and Senators to pass legislation that will allow them to receive the adequate Medicare reimbursement they need.

Medicare reimbursement is already well below the actual cost of providing patient services, and physicians tell me every year that if these cuts go into effect, they will be faced with the tough decision of either laying off employees or no longer treating Medicare patients, or both.

Oftentimes, we in Congress wait until the last possible moment of each year to pass legislation that will provide these physicians with their much-needed relief. While we all know that there is a need to replace the current SGR formula, this afternoon I want to focus on the relevant legislation pending before the Senate.

The bill before the Senate would alleviate the 10.6 percent physician fee cut and replace it with a 1.1 percent increase over 18 months. I support this element of the legislation and believe that an 18-month fix will not only keep physicians from worrying that their reimbursements will be cut, but will also give Congress time to look at possible alternatives to the SGR.

However, I do not agree with other aspects of this legislation. First and foremost, the President has threatened to veto this legislation. In December of last year, we passed legislation that would remove the SGR cuts until June 30 of this year.

Even if this legislation had overwhelming support, which it does not, the process of this bill passing both Houses, getting vetoed by the President, and returning for a veto override would be quite a feat to accomplish in 18 days, and simply cannot practically happen.

Second, this legislation expands entitlement spending such as the Part D Low-Income Subsidy and Medicare Savings Program. While these are good programs, I do not understand why we would expand these programs when there are already significant numbers

of seniors who are eligible for the programs at current levels but are not enrolled.

This is not the time to expand entitlement spending when it is already out of control and unsustainable.

Here we are trying to put a bandaid on reimbursement to our doctors and, at the same time, talking about additional expenditures in Medicare, so that the next year when we come back, it is going to be even harder if we don't have a permanent fix to use this bandaid approach for physicians and hospitals.

Third, this legislation reduces access to Medicare advantage plans.

These plans aren't perfect, but Medicare Advantage has been the one reform in the Medicare system we have seen that works. It needs some modification to it, but the fact is it is working.

These plans, which are approved by medicare, save beneficiaries an average of $86 per month compared to premiums in traditional fee-for-service medicare. They have been especially important in enrolling low-income and rural beneficiaries.

We should have learned from past congresses' mistakes that cutting payments to medicare advantage plans results in them being forced to drop seniors. In my home State of Georgia, more than 138,000 beneficiaries rely on these plans.

Senator GRASSLEY has introduced alternative legislation that would provide physicians with the exact same 1.1 percent fee increase that is included in the pending legislation. And it would do this while eliminating duplicative indirect medical education payments to medicare advantage plans, making reforms to curb controversial and abusive medicare advantage marketing practices, and spending 25 percent less than the pending legislation.

Most importantly, this alternative legislation would not be vetoed by the President and could be signed into law before the July 1 deadline. Unfortunately, the majority will not allow us to bring this legislation to the floor. I hope that decision changes.

Doctors and seniors deserve a serious and responsible effort that addresses the impending fee cut without playing politics, cutting essential services, and creating a major expansion of entitlement spending.

It is my hope that Congress will work toward a bipartisan agreement that will provide doctors with the relief they need before July 1. With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I am pleased to join Chairman BAUCUS in sponsoring this bipartisan legislation, which both abrogates severe cuts to provider payments, and also takes steps to reform Medicare spending to address the distressing fiscal trajectory of this critical health entitlement.

The bill before us today represents a product of what has become an annual—and recently a semiannual task—that of extending Medicare financing. It is a sad state of affairs when we see two Medicare bills emerge from the Finance Committee. For months Chairman BAUCUS and Ranking Member GRASSLEY have worked to build consensus on Medicare—just as they did last year. In fact, their reputation for bipartisanship is legendary.

Ranking Member GRASSLEY saw that we achieved the landmark benefit that is in part enhanced in this bill—the coverage of prescription drugs under Medicare. I have long regarded his leadership so highly, and I am confident that—as this debate continues—we will see him forge agreement to address critical Medicare issues because of his bipartisanship.

And in fact—but for intransigence to compromise from the administration last December—we would not need to be here today debating these issues. But instead only a 6-month extender bill could be enacted—and now our providers and beneficiaries face cuts on July 1.

The fact is, that just a few weeks ago, with compromise achieved on so many issues, we appeared to be separated by approximately $3 billion in spending directed to beneficiaries. The fact is, that amount of funding represents less than what should be committed to meet critical needs of our most economically challenged beneficiaries, and it represents less than two-tenths of 1 percent of total Medicare spending. And under this legislation, these funds would be obtained from fiscal savings which Medicare must begin to realize. Not from taxes. Not from deficit spending.

And as we debate this difference between these two Medicare bills, we must enact sound fiscal policy—not ideological dogma. As CBO has told us repeatedly, the factors of an expanding senior population—and more significantly, as this chart illustrates, a rise in per capita health care spending—are working together to make Medicare the number one fiscal concern on the horizon. So it is critical that we take substantial steps to ensure the fiscal health of Medicare for future generations.

It was an attempt to do so which set us on this course. The creation of the sustainable growth rate formula—or ''SGR''—was originally intended to serve as a limiter of spending, and it did so effectively for a time. Yet, today, the SGR operates crudely and irrationally to simply restrain payments to physicians. Next month, without intervention, physician payments will be reduced 10.6 percent. Yet it is also essential to recognize that these annual Medicare bills encompass more than just the SGR. A number of other programs are renewed on this same schedule. We call these ''extenders'' and they represent critical parts of Medicare—including items such as assistance to low income beneficiaries and programs which support rural health delivery—and they face termination without our action.

As we consider this bill today, it must be viewed in the light of how it will address two crucial issues. First, does it fairly assure reasonable payments to those who serve our beneficiaries to preserve access to care? And second, does it take action to change the course of health spending to help assure the fiscal security of Medicare—particularly when you see the growth and trajectory of growth in Medicare spending?

First, as it must, this legislation takes action to prevent a large reduction in payments to physicians. So too it enacts a number of critical extensions to programs critical to assure that beneficiaries will have secure access to health care.

We act to see that health centers receive relief from an artificial cap which prevents them from being fully reimbursed for the services they provide to beneficiaries. This bill grants some relief from that cap and is a step towards the reform which my legislation with Senator BINGAMAN would achieve to prevent health centers from serving Medicare at a loss.

In similar fashion this bill would ensure that pharmacies will be paid promptly for the medications they provide seniors under the Part D drug benefit. And just as critical, we assure that Medicaid payment policy does not discourage the dispensing of generic drugs through inadequate reimbursement.

And as we avert a pending physician payment cut it is unconscionable that we would leave the most vulnerable beneficiaries behind. In passage of the Medicare Modernization Act in 2003, we worked in a bipartisan fashion to assure that our most vulnerable beneficiaries would receive a low income subsidy, LIS, to provide extra assistance with drug costs. Today, a beneficiary qualified for full LIS support must have income below 135 percent of the Federal poverty level and assets not exceeding $7,790 for an individual and $12,440 for a married couple.

Yet, our Medicare Savings Plans—which assist very low income beneficiaries outside of Part D—utilize a very different assets test standard—just $4,000 for an individual and $6,000 for a couple—despite even more stringent income standards. In fact, the Qualified Medicare Beneficiary—Quimby program—enacted in 1988—has not seen an update in the assets test over two decades. Were the amount to have been indexed to a measure of inflation such as the Consumer Price Index, today that amount would nearly equal the assets limit for full Low Income Subsidy under Part D. So it is common sense that we align the assets tests for Medicare savings program with the full LIS limit so that truly needy seniors will realize the help we intended. We act to index these asset tests to inflation, and critically, extend outreach including through the

Social Security Administration. These provisions represent long-overdue corrections—not an entitlement expansion.

As I stated earlier, this bill should also help us to change our spending trajectory. Because what we spend is in fact more critical to Medicare's fiscal health than even the aging demographics of our population, this legislation aims to help re-orient our spending to assure that Medicare implements more ''best practices,'' beginning with greater support for preventive services. This follows what we began with the enactment of the Medicare Modernization Act in 2003.

This bill allows the HHS Secretary to add support for services recommended by the U.S. Preventive Services Task Force. This is a key step in payment reform. Because the fact is, we can no longer expend our first dollar on a disease for an individual's hospitalization. We must be more proactive and cost effective.

Similarly, we address the inequity of access to mental health services. Today, beneficiaries pay 50 percent of the cost of outpatient mental health services—compared to 20 percent for other care. So as the Senate acts to ensure mental health parity in the private sector, we must not leave our beneficiaries behind. Tragically, only half of seniors with mental health problems receive treatment, and the toll is seen in the fact that suicide rates among older Americans far exceed those of other age groups.

This legislation includes provisions of legislation that I introduced with Senator KERRY and accomplishes a phased-in elimination of the copayment disparity.

This legislation takes a balanced approach, one which averts unfair cuts to providers, and meets the critical needs of our most vulnerable beneficiaries.

Then one could rightly ask: Why are we here? If there was some agreement on such priorities, what is the obstacle?

The answer to that question, as it is so often, lies in how spending is paid for. Today, as we consider legislation affecting provider payments in particular, the issue of equity is central. When equity is considered, the subsidies of private plans in Medicare constitute an issue which must be addressed.

Today we are subsidizing such private Medicare plans by paying an average of at least 112 percent above the rate of traditional fee-for-service Medicare. Last year, the 5-year subsidy cost was estimated at $50 billion over 5 years. This year, we have already received revisions of cost projections which may indicate the total cost is much higher.

One might ask why, at a time when we are concerned about the fiscal health of Medicare and when we face critical needs, such as those of the lowest income beneficiaries, would we spend this sort of subsidy?

The Chairman of the Medicare Payment Advisory Commission, Glenn Hackbarth, succinctly stated the problem last year when he stated that ''right now, Medicare is sending the signal that we want private plans even if they cost substantially more than the traditional Medicare.'' He added:

I think what we need, not just in Medicare, but in the country more broadly, is to send the signal that we want plans that more efficiently manage care.

I think we have an agreement that we expect these plans to deliver value for beneficiaries and taxpayers alike—to employ prevention, early screening and detection, and prompt effective care to improve health and reduce costs.

Yet what we have seen in Medicare Advantage is deeply troubling. First, there is the paucity of data regarding outcomes. This chart quotes the CBO Director Orszag, who decried the absence of substantiation of performance, stating he was ''continuing to beg'' for data from plans demonstrating performance. He noted the subsidies these plans enjoy. He said:

It's almost as if they're conducting a variety of experiments in disease management and various other things. And they are doing so with public subsidies.

Yet while the average Medicare Advantage plan receives a subsidy at least 12 percent above traditional Medicare, a new plan type receives much more, as much as 121 percent of fee-for-service rates. These private fee-for-service plans primarily involve a redesign of the Medicare benefits package. So a beneficiary might initially see a plan as offering better value, such as offering vision benefits. Yet while private fee-for-service plans must cover the same benefits as fee for service, they can substantially alter a senior's cost sharing so one's out-of-pocket costs can be much higher.

But the enticement of new benefits and aggressive and even abusive marketing practices, as we learned in a number of hearings—I know, Mr. President, you were there at some of those hearings in the Senate Finance Committee—has resulted in explosive growth in these plans.

As we see on this chart, it demonstrates the increased enrollment from less than 26,000 beneficiaries in 2003 to 1.5 million at the beginning of this year. So far this year, another 400,000 beneficiaries have enrolled.

I am pleased we have seen bipartisan agreement to address the grievous marketing abuses which have plagued beneficiaries. Many of our constituents have been confronted in their homes by high-pressure, door-to-door, and telemarketing sales efforts. We have seen seniors enticed to events by free meals and gifts and frequently enrolled unknowingly in new plan coverage they neither needed nor wanted. Much of this has been fueled by high commissions.

Such abuses led me to introduce a bill with Senator ROCKEFELLER in March to ban these practices and protect beneficiaries. In fact, I can say my State of Maine has been in the forefront passing legislation on its own. States are taking unilateral action to foreclose these practices that get people to join plans unnecessarily and adding to their costs and their problems.

The legislation Senator ROCKEFELLER and I introduced has provisions that will include prohibitions on the activities I described earlier.

It is abundantly clear such plans not only cost more and are plagued by marketing abuses, but they lack the mandates which HMO and PPO plans carry to actually act to improve care. In fact, the Congressional Budget Office Director, Peter Orszag, said again, ''The type of things we are talking about—disease management, care coordination—is much less salient and much less prevalent in private fee-for-service.''

Also, because private fee-for-service plans are not required to establish contracted networks of providers, such plans use deeming, a practice in which, by serving a patient, a provider is deemed to have accepted the plan's terms. That shortchanges providers. Since these plans are also not required to provide care management, they shortchange beneficiaries. So we are paying more through subsidies and they are providing less and are capturing them through the deeming process, which is inherently unfair and extremely costly.

With these deficits, private fee-for-service plans require subsidies to function, and today they are paid far more than the traditional fee for service—which I mentioned earlier—and are a large and growing share of Medicare Advantage costs. They are subsidized, as I said, as much as 121 percent above the rates Medicare was paying local providers before this so-called innovation.

So as we see an escalation in the cost of subsidizing Medicare Advantage, it is wholly appropriate that we examine a reduction in unfair subsidies to these plans, subsidies that are provided by the taxpayers.

We recognize, as does the administration, that built into these higher Medicare Advantage rates is a duplication of the institutional medical education payment which institutions already receive directly today. The cost of that duplication was estimated at $8.7 billion earlier this year. Yet today, with rapid growth in these plans, the Congressional Budget Office tells us the cost of the unnecessary subsidy is now an estimated $12.5 billion. The fact is, that estimate does not reflect a deeper rate of reduction than we discussed 6 months ago. It simply reflects the escalation in costs as a growth of these subsidized, uncompetitive plans continue.

So as we examine areas in which we could save, there can be no doubt that the duplicate payment is a prime candidate. In fact, the Medicare Payment

Advisory Commission, MedPAC, recommended we bring all Medicare Advantage plans to parity and specifically recommended eliminating this duplicate payment, as indicated by their comments on this chart.

On the latter recommendation, the President has agreed we must eliminate the duplicate payment. I note the President included a proposal in his budget this year to eliminate it, but he has imposed reductions which would affect the rate of reduction we have now discussed, which would reduce subsidy spending by $12.5 billion. The President also prefers to eliminate payments to the institutions responsible for this Institutional Medical Education Program and instead would rely on plans to funnel payments to teaching institutions. Although we differ with him in terms of how to eliminate the duplicate payment, reducing the plan subsidy for this savings is reasonable, and agreement should be possible.

As I said earlier in my statement, it is a difference of $3 billion, and therein lies the difference in the subsidy. The Congressional Budget Office recalculated the original cost of savings of achieving this reduction in the Institutional Medical Education Program earlier this year at $8.5 billion. They recalculate to $12.5 billion. You say: Why won't the President support that now? It is the same savings, the same plan. It has been recalculated, and we achieve greater savings in order to offset the additional provisions we provided for the lowest income beneficiaries. So it seems to me this is an area in which we should achieve agreement. If we agree we should eliminate the duplicate payment—and it has now been estimated in savings from the Congressional Budget Office at $12.5 billion instead of $8.7 billion—we ought to be able to agree on the pending legislation.

This legislation effects a second savings in Medicare Advantage by eliminating deeming wherever two managed care plans have succeeded in establishing networks. It simply makes sense that if managed care plans can contract providers, these private fee-for-service plans should as well.

By reducing the duplicate IME payment by $8.7 billion and modifying the deeming provisions for plans, this legislation realizes $12.5 billion in savings. Still just less than one-fourth of the current Medicare Advantage subsidy cost.

I note these savings fall far short of the fiscal responsibility which MedPAC, the Congressional Budget Office, and others suggest is absolutely necessary and vital. Yet some still claim these savings jeopardize Medicare Advantage. But the fact is, they are modest in terms of changing an environment which is both fiscally irresponsible and anticompetitive.

For those who suggest subsidies should be maintained, they must answer some critical questions: When will these plans be economically viable? When will savings be realized by the taxpayers who are providing these subsidies to private insurance companies, in fact, far more than the traditional fee for service? When will more effective care be demonstrated? Again, they don't provide for prevention, effective disease management, screening or many of those tests that are so essential today that a provider in traditional fee for service, and yet not under these private plans, who are getting paid more than what we pay under fee for service in Medicare. What costs must the rest of Medicare bear as a result of these anticompetitive subsidies?

The fact is the limited savings we accomplish in this legislation do not even threaten the continued operations of these uncompetitive plans. Even Wall Street knows that. I note in this final chart that an analyst for Goldman Sachs actually stated that savings exceeding those we make here do not affect the viability of these plans and that the Medicare Advantage Programs actually could ''absorb $15 billion in cuts over 5 years without materially undermining the fundamentals.''

As I said earlier, we are using $12.5 billion, not even $15 billion, and they are saying it would have no negative impact on those private programs.

Further, we should, in fact, be fostering competition. In fact, that is what it was all about originally, providing those subsidies so there would be some competition. Business will respond, they said, and thereby achieve some of the objectives on which these plans were predicated.

There is always political risk. As Simon Stevens of United Health Care noted, ''There is always political risk in government programs,'' he said, ''but we will weather it by evolving as Medicare evolves.''

There are urgent Medicare financing needs today which must be met. We must fix the physician payment formula. We must reform Medicare to see that care is improved and beneficiaries and taxpayers receive better value. We have so much more to do. Yet here we are being stymied by a difference of less than two-tenths of 1 percent of Medicare spending, that all is accomplished by reducing the subsidies to private health insurance companies. That is the difference in the pending legislation and those who object to it.

This legislation, in fact, reflects many issues on which we have had bipartisan agreement. It bridges the critical gap between us in considering the vital and essential requirements of beneficiaries, by taking actions to see best practices emphasized and low-income assistance standards are at least updated for inflation. It also acts to see that Medicare policies are not penny-wise and pound-foolish.

I hope we will see this very modest compromise on this legislation that will produce progress for the providers, for current beneficiaries, and for generations to come to achieve the savings we think is essential—and it is offset because we think that is the fiscally responsible approach to take—and also not to skew disproportionately the subsidies we are providing to private health insurance companies for private fee for service, for both to work in a competitive fashion, and what we are seeing are subsidies growing by leaps and bounds.

To reach that compromise, we have to support this legislation. Hopefully, the Senate will express its support for sound fiscal policy. Hopefully, we can override the cloture. If that fails, I hope we can, again, come to together and resolve these differences and demonstrate to the American people that we have the capacity to solve problems at this very crucial juncture in our Nation's history.

Mr. SPECTER. Mr. President, this is a very important bill for reasons which I am discussing in this statement. I believe that it is vital for the Senate to take up this important measure to have open debate to give Senators an opportunity to offer amendments and to have the Senate work its will on these important questions.

As noted in previous floor statements, I have been concerned about the majority leader's practice of employing a procedure known as filling the tree, which precludes Senators from offering amendments. That undercuts the basic tradition of the Senate to allow Senators to offer amendments. Regrettably, this has been a practice developed in the Senate by majority leaders on both sides of the aisle, so both Republicans and Democrats are to blame.

I announced publicly at a Senate Judiciary Committee executive session this morning, June 12, 2208, that I would vote with Senator BAUCUS for cloture if I knew the majority leader would not fill the tree. In a telephone conversation this afternoon, June 12, 2008, Majority Leader HARRY REID advised me that he would not fill the tree.

This will provide an opportunity for a full range of debate and decisions by the Senate on many important issues.

On the Medicare bill specifically, S. 3101 has a number of issues which are important to Medicare beneficiaries in Pennsylvania and across the Nation. Foremost of those issues is the prevention of a 10.6-percent reduction in the Medicare reimbursement for physicians. A decrease of this size could result in doctors limiting the number of Medicare beneficiaries they take on as patients or refusing to take them on as patients at all. To resolve this grave problem, the legislation prevents the scheduled reduction, continues the current .5 percent increase for 2008, and provides an increase of 1.1 percent for 2009. This is a needed increase that will improve access to physicians for seniors.

This legislation also contains an important provision to extend the section 508 wage index reclassification program. This program, established in the Medicare Modernization Act in 2003,

provides important funding for hospitals that have been disadvantaged by Medicare's wage index reclassification. This is of particular importance in northeastern Pennsylvania where hospitals struggle to meet the wages needed to keep employees from commuting to other areas which have a higher reimbursement rate. This is an important extension; however, a permanent solution is needed to solve this problem for all hospitals.

I am informed that the bill will include a delay in the Medicare durable medical equipment, DME, competitive bidding program. This is critical to western Pennsylvania, as it is one of the regions selected to begin the program. While competitive bidding can be productive in lowering the cost of medical equipment, the manner in which this program was implemented was unacceptable. During the competition for bids, half of the bids were disqualified, often for clerical problems. Further, the program is set to begin in just over 2 weeks and seniors have not been notified of these changes. This legislation will delay the implementation of this program to allow for the proper implementation of this program and correction of these problems.

I am also informed that the bill will include a provision to increase Medicare payments to oncologists and other physicians for the cost of patient treatment. Physicians are facing shortfalls in their reimbursement, especially pertaining to cancer treatment. This provision will provide an accurate and up-to-date reimbursement for drug costs, ensuring cancer treatment will be accessible to Medicare beneficiaries.

I am concerned about a change that this legislation makes in the ability of beneficiaries to purchase power wheelchairs. S. 3101 requires the rental of standard wheelchairs for 13 months instead of a physician determining if the beneficiary should purchase the equipment immediately. This provision removes the problem of purchasing wheelchairs for short term users but increases the cost 5 percent for the purchase after those 13 months. To insure that beneficiaries get the wheelchairs they need without overspending, a physician should be required to certify that a power wheelchair is needed for at least 13 months. I am confident as we consider this bill we can work out the differences we have and come to an agreement.

Mr. ENZI. Mr. President, today, we will continue to discuss the political exercise surrounding the Medicare ''doc fix'' bill. I am hopeful that after the vote this afternoon, bipartisan discussions can resume so that we can get a bill to the Senate floor that we can all support. While others have fully outlined all of the problems with the process and content of S. 3101—the Democrats version of the bill—I want to take the time to discuss a small aspect of the Republican version of the bill.

Just last week, I came to the floor to discuss Senator Thomas, acknowledging that just over a year ago the State of Wyoming and our Nation lost one of the great cowboys ever to ride this land. Although a year has passed since Craig left us, his spirit is alive and it is felt by all of us within this body. Work he championed on behalf of Wyoming residents and all Americans is ongoing today. In fact, we continue to acknowledge his great work to improve health care in rural areas within the Grassley Medicare bill—the Preserving Access to Medicare Act.

There is a whole subtitle named after Senator Thomas with provisions to assist providers and patients in rural areas. These provisions will help keep the doors open for rural hospitals so that critical care is available. In addition, they will ensure that individuals in rural areas have the emergency transport services available to get them from the scene of an accident to immediate care, to expand access to laboratory services so one can quickly obtain test results for a potential cancer diagnosis, and to ensure greater access to telehealth capabilities at skilled nursing facilities and dialysis centers. These are just to name a few of the key rural health provisions. Given the work of Senator Thomas, I do hope that these provisions can be maintained in future bipartisan discussions.

Mr. CARDIN. Mr. President, I rise in strong support of S. 3101, the Medicare Improvements for Patients and Providers Act of 2008.

This bill merits the support of every Senator. Action on this legislation is mandatory now because, in 18 days, the temporary fix we passed at the end of last year for providers will expire. If we fail to act, reimbursements to physicians and other providers who are paid under the physician fee schedule will be cut by 10.6 percent.

On Tuesday, I met for over an hour with several physicians from Maryland. They cannot sustain a 10 percent cut in their Medicare payments, and they know that if these cuts are put into effect, many of their colleagues will stop accepting new Medicare patients into their practices.

These pending cuts are the result of a flawed system that pegs reimbursement to the growth of GDP. We all recognize that this system, known as SGR, does not work. Every year since 2001, Congress has had to act to prevent the cuts from going into effect. We know that SGR must be repealed.

I have introduced legislation in past years to eliminate SGR and replace it with a system that reimburses based on the actual reasonable costs of providing care. S. 3101 provides another temporary fix through December 31, 2009. That is sufficient time for Congress, working with a new administration and the provider community, to develop a new system of reimbursement that will contain unnecessary increases in volume while ensuring that reasonable costs are covered.

But this bill is so much more than a ''doctor fix bill.'' Also expiring on June 30 is the exceptions process for outpatient therapy services. Therapy caps for physical, occupational and speech language therapy were added to Medicare law more than 10 years ago for purely budgetary reasons. The authors of that provision had no policy justification for limiting services, and the amount of the caps was purely arbitrary.

Unless the exceptions process is extended, seniors recovering from more complex conditions, such as hip replacement and stroke, will face unreasonable and arbitrary dollar limits on the rehabilitation services available to them.

This urgently needed legislation will help not just providers, but also the millions of seniors that Medicare was created to serve. This Senator is proud that the bill's title reflects the right priorities for Medicare—this is The Medicare Improvements for Patients and Providers Act.

The 43 million seniors and persons with disabilities who rely on Medicare deserve a program that meets their health care needs. Our goal should be to ensure that Medicare provides comprehensive, affordable, quality care. S. 3101 makes important steps toward a better Medicare.

It is significant that Chairman BAUCUS has led with important beneficiary improvements. In 1997, I worked in a bipartisan way to add to the Balanced Budget Act the first-ever package of preventive benefits to the traditional Medicare Program. That was 11 years ago. At that time, the members of the Ways and Means Committee recognized what medical professionals had long known—that prevention saves lives and reduces overall health care costs.

Preventive services such as mammograms and colonoscopies are vital tools in the fight against serious disease. The earlier that breast and colon cancer are detected, the greater the odds of survival. For example, when caught in the first stages, the 5-year survival rate for breast cancer is 98 percent. But if the cancer has spread, the survival rate drops to 26 percent. If colon cancer is detected in its first stage, the survival rate is 90 percent, but only 10 percent if found when it is most advanced.

Seniors are at particular risk for cancer. In fact, the single greatest risk factor for colorectal cancer is being over the age of 50 when more than 90 percent of cases are diagnosed. Sixty percent of all new cancer diagnoses and 70 percent of all cancer-related deaths are in the 65 and older population. Cancer is the leading cause of death among Americans aged 60–79 and the second leading cause of death for those over age 80. So preventing cancer is essential to achieving improved health outcomes for seniors. Screenings are crucial in this fight.

In addition to improving survival rates, early detection can reduce Medicare's costs. Under Chairman CONRAD's leadership on the Budget Committee, we have had fruitful debates about the

long-term solvency of Medicare. A more aggressive focus on prevention will help produce a healthier Medicare Program.

Let me give you some examples. Medicare will pay on average $300 for a colonoscopy, but if the patient is diagnosed after the colon cancer has metastasized, the costs of care can exceed $58,000.

Medicare will pay $98 for a mammogram, but if breast cancer is not detected early, treatment can cost tens of thousands of dollars. One drug used to treat late stage breast cancer can cost as much as $40,000 a year. There is no question that these vital screenings can produce better health care and more cost-effective health care.

The 1997 law established place improved coverage for breast cancer screenings, examinations for cervical, prostate, and colorectal cancer, diabetes self-management training services and supplies, and bone mass measurement for osteoporosis. Since then, Congress has added screening for glaucoma, cardiovascular screening blood tests, ultrasound screening for aortic aneurysm, flu shots, and medical nutrition therapy services. In addition, in 2003, a Welcome to Medicare Physical examination was added as a one-time benefit for new Medicare enrollees available during the first 6 months of eligibility.

But we can only save lives and money if seniors actually use these benefits. Unfortunately, the participation rate for the Welcome to Medicare physical and some of the screenings is very low. I have spoken with primary care physicians across my State of Maryland about this. One problem is the requirement to satisfy the annual deductible and copays for these services.

Patients are responsible for 20 percent of the cost of a mammogram, between $15 and $20. Most colonoscopies are done in hospital outpatient departments, where their copay is 25 percent, or approximately $85. Our seniors have the highest out of pocket costs of any age group and they will forgo these services if cost is a barrier.

The other barrier to participation is the limited 6-month eligibility period for the one-time physical examination. By the time most seniors become aware of the benefit, the eligibility period has expired. In many other cases, it can take more than six months to schedule an appointment for the physical exam and by that time, the patients are no longer eligible for coverage.

I have introduced legislation to eliminate the copays and deductibles for preventive services and to extend the eligibility for the Welcome to Medicare physical from 6 months to 1 year. My bill would also eliminate the time consuming and inefficient requirement that Congress pass legislation each time a new screening is determined to be effective in detecting and preventing disease in the Medicare population. It would empower the Secretary of Health and Human Services to add ''additional preventive services'' to the list of covered services. They must meet a three part test: (1) They must be reasonable and necessary for the prevention or early detection of an illness; (2) they must be recommended by the U.S. Preventive Services Task Force, and (3) they must be appropriate for the Medicare beneficiary population.

S. 3101, the Baucus bill, incorporates several elements of my bill in the very first section, and I want to thank the Finance Committee for including them. It will waive the deductible for the physical examination, extend the eligibility period from 6 months to 1 year, and allow the Secretary to expand the list of covered benefits.

These provisions are supported by the American Cancer Society, AARP, the Alliance for Retired Americans, the Leadership Council of Aging Organizations, SEIU, the National Committee to Preserve Social Security and Medicare, the American College of Preventive Medicine, the National Hispanic Medical Association, the American Academy of Nursing, and many more groups.

This bill will also help low income seniors by raising asset test thresholds in the Medicare Savings Programs and targeting assistance to the seniors who most need it.

As this Congress continues to make progress toward passing a comprehensive mental health parity bill, the Baucus-Snowe bill steps up for our seniors and provides mental health parity for Medicare beneficiaries, moving their copayments from 50 percent to 20 percent gradually over 6 years. Depression, bipolar disorder, and other mental illnesses are prevalent among seniors, and yet fewer than half receive the treatment they need. This provision will help them get needed services.

Section 175 of the Baucus bill will ensure that a category of drugs called benzodiazepines are covered in Medicare Part D. When the Medicare prescription drug benefit took effect on January 1, 2006, millions of beneficiaries found that the prescription medicines they took were not covered by the new law. A little-known provision in the Medicare prescription drug bill actually excluded from coverage an entire class of drugs called benzodiazepines. These are anti-anxiety medicines used to manage several conditions, including acute anxiety, seizures, and muscle spasms. The category includes Xanax, Valium, and Ativan. Most are available as generics.

They constitute the 13th leading class of medications in the U.S., with 71 million prescriptions dispensed in 2002. A study of dual-eligibles in nursing homes found that 12 percent of patients had at least one prescription for a benzodiazepine. This exclusion has led to health complications for beneficiaries, unnecessary complexity for pharmacists, and additional red tape for the states. Beneficiaries who are not eligible for Medicaid have had to shoulder the entire cost of these drugs or substitute other less effective drugs. In 2005, I first introduced legislation that would add benzodiazepines to the categories of prescription drugs covered by Medicare Part D and Medicare advantage plans.

I want to thank Chairman BAUCUS for recognizing the importance of this coverage and adding section 175 to this bill. Without this provision, dual eligibles would have to rely on continued Medicaid coverage for benzodiazepines. Medicare beneficiaries who are not eligible for Medicaid will have to continue to pay out-of-pocket for them. For those who cannot afford the expense, their doctors would have to use alternative medicines that may be less effective, more toxic, and more addictive. This is a significant improvement for our seniors who are enrolled in Part D and for the fiscal health of our States.

The Baucus bill is paid for by slight reductions to the overpayments that the federal government makes to private health plans. The nonpartisan Medicare Payment Advisory Commission, MedPAC, has recommended that we equalize payments between Medicare Advantage and traditional Medicare.

As we discuss the solvency of the Medicare Program, we must take note that private health plans are not saving the Federal Government money. In fact, they are costing us money. I was a member of the Ways and Means Committee when health plans approached us with an offer. If the Federal Government would pay them 95 percent of what we were spending on the traditional Medicare Program, they would create efficiencies through managed care that would save the Federal Government billions of dollars each year. They promised to provide enhanced coverage, meaning extra benefits as well as all the services covered by traditional Medicare, for 95 percent of the cost of fee for service. Congress gave them a chance to do just that.

Instead, what we saw across the country was cherry-picking of younger, healthier seniors. Each time Congress indicated that it would roll back their overpayments to a more reasonable level, they responded by pulling out of markets. In Maryland, the number of plans declined over a 3-year period from eight to one, abandoning thousands of seniors. Since 2003, when payments were substantially increased, the number of plans has steadily increased as well, but at too high a cost to beneficiaries, taxpayers, and the future of the Medicare Program.

Right now, these plans are paid up to 19 percent more than the amount that we would pay if these seniors were in fee-for-service Medicare. Over 10 years, we are overpaying them by more than $150 billion.

That is enough to make significant valuable improvements in the overall

Medicare Program, or to permanently repeal the sustainable growth rate formula. It is time, for the health of the Medicare Program, to pay these plans appropriately. This bill would make small reductions to these overpayments as well as prohibit the abusive marketing practices, such as cold calling, door-to-door sales, and offering incentives such as free meals, which have led to many seniors being enrolled in private plans without their knowledge or consent.

This is a balanced and responsible bill that addresses immediate reimbursement concerns while setting the foundation for a higher quality, more cost-effective Medicare Program. I urge my colleagues to support the motion to proceed to S. 3101 and to vote for this well-crafted bill.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SALAZAR). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAXES

Mr. GRASSLEY. Mr. President, yesterday afternoon I discussed the burden that high gas prices are having on all Americans, and not just on my constituents in Iowa but all over this great country. I think now that most of my colleagues in the House and Senate know that high gas prices mean less discretionary income for people—less discretionary income to spend at the mall, to spend at the farmers market, less discretionary income to buy ice cream on hot summer days, and less discretionary income to save for a rainy day.

I can assume my Democratic colleagues know that actions that take discretionary income away from the American people are detrimental to those people and detrimental to the overall economy—detrimental to their way of life and detrimental to our country's future. I guess I don't have to assume folks on the other side know this. This body has been debating the issue of escalating oil prices and energy for the better part of this week. I heard countless accounts from my Democratic colleagues about how their constituents are hurting. So I think my friends on the other side get it. They get that taking the hard-earned dollars out of the pockets of their constituents is detrimental to those constituents.

What my Democratic friends don't get is that raising taxes has the same effect. Raising taxes takes hard-earned dollars out of the pockets of their constituents. Don't folks on the other side think this is a problem? It is a problem for their constituents' way of life, and it multiplies into problems for our economy. It is a problem for our country's future. But I don't think the leadership on the other side understands this fundamental fact. So I guess folks on the other side just don't get it.

Is this change Americans can believe in? If they are not being told the entire story, how can they know what to believe? If the leadership on the other side isn't telling the entire story, the folks in the media need to. And I believe folks in the media are well enough educated to know what the truth is and to spread the truth. So I challenge our media friends and beltway pundits—a little like I did yesterday in remarks here—to report that higher taxes means less discretionary income, it means slower economic growth, and it won't mean more revenue for the Government to spend. It is too bad that people are of the frame of mind that if you raise tax rates, you bring in more revenue, and if you reduce tax rates, you lower revenue. I like to disabuse people of those facts.

Yesterday, I also told the beltway punditry and related press people to stop referring to the bipartisan tax relief of 2001 as the Bush tax cuts. These are the talking points of the leadership on the other side of the aisle that the press seems to somehow eat up because it gets repeated. It is just a fact of life: Bush gets all the credit for the tax cuts. Well, it is intellectually dishonest, and it gives Americans the impression that the bipartisan tax relief that was passed back then—7 years ago—is bad.

But then again, what should we expect from the other side of the aisle and their leadership's campaign? Everything coming out of that shop tends to be poll-driven. Take a poll the night before, and whatever the people are telling you the night before, that is what the message is the next day as opposed to being more concerned about good policy being good politics.

The 2001 tax relief put more money into the pockets of hard-working Americans, and they are better off for it. Sure, the leadership on the other side of the aisle wants the voters to believe tax relief is bad. The junior Senator from Illinois wants the voters to believe raising taxes will solve all problems. The distinguished Senator also wants voters to believe taxes will only be raised on people who earn lots of money, where there isn't the money to solve all the problems. His party wants people to believe there are no downsides for taxpayers, no downsides for economic growth if income taxes go up by 10 percent, even if taxes are raised on families making $250,000 or more.

Now, it is too bad, but the media seems to believe this propaganda and ignores the fact that the economics behind it are not responsible and factual, because that is the report they put out there, so that is what the people hear.

The Democratic leadership has also successfully convinced the media that raising taxes will bring in more revenue. I want to remind the media that the bipartisan tax relief brought in more revenue than was projected, much more revenue than what the 1993 Clinton tax increase brought in over a comparable period.

I have a chart here that I would like the media to take a look at, a chart which illustrates that lower taxes have generated record revenues.

See, you have the actual revenues that came in and you have the projected revenues before we lowered taxes. This chart illustrates that Federal tax revenues have been and generally continue to be coming into the Federal Treasury at or above the historical average—and the historical average, the way I say it, is the last four decades—of about 18.2 percent of gross domestic product. Now, what does that 18.2 percent of gross domestic product mean? It means that by lowering the tax rates, as we did in 2001, it does not in any way gut Federal tax revenue.

But how easy is it to explain to people who don't look at economics every day that if you lower tax rates, you are going to bring in less revenue; if you raise tax rates, you are going to bring in more revenue? Because that is kind of what common sense might tell you. But the study of economics and what really happens by the facts are two different things. You can keep tax rates where they historically have been for the last 40 years, about 18 to 19 percent of gross domestic product—and when they were at 20, we reduced them down to that point; in fact, even a little bit less growth has brought them back up—and you can do it without hurting the Federal Treasury. In fact, you can enhance it. Do you know why? Because of the dynamics of our economic system, of our market system. When you let 137 million taxpayers, with more money in their pockets, decide how to spend the money—and probably in 137 million different ways—it does more economic good than when 535 Members of Congress decide how to do it. But you know, some have the attitude around here that the judgment of 535 Members of Congress is much better than the judgment of 137 million taxpayers, so we don't need to raise taxes in order to generate revenue.

So to the media people: Don't believe the Chicken Littles. I have a chart here of Chicken Little, who says that the sky is going to fall if we keep taxes low.

I can't let my colleagues on the other side and some of the skeptics in the press say to the American public that if you earn less than $250,000 a year, you won't see higher taxes, so I have these news flashes:

News flash: You don't have to be earning $250,000 to invest money in the stock market.

News flash: You don't have to be earning $250,000 to have real estate holdings.

News flash: You don't have to be earning $250,000 to have your savings in mutual funds.

All those flashes prove that if you earn less than $250,000 a year and you

hold these investments, guess what—you will be paying more taxes. Let me take a closer look so I can demonstrate that is what is going to happen.

In 2003, Congress reduced the top tax rate on capital gains, lowering taxes again from 20 percent to 15 percent. Congress also did the same thing for dividend income, tied it with the capital gains tax rate at 15 percent. For lower income taxpayers, we thought they ought to have an incentive to save, so the tax rate on capital gains and dividends for low-income taxpayers is zero—that is zero with a ''z.'' Millions of low-income taxpayers receive dividends and capital gains. All of these taxpayers are not making more than $250,000.

To help out the media, I will illustrate these points with yet another chart. As you can see from this chart, over 24 million tax returns reported dividend income. In Iowa, for instance—my State—over 299,000 families and individuals claimed dividend income on their returns.

Another chart we have deals with capital gains. The first one dealt with dividends, now this one with capital gains. Nationally, 9 million families and individuals claimed capital gains—9 million families—and in my State of Iowa, over 127,000 of them. Now, that is a lot of taxpayers who are not earning a lot of money. So I want the media to report that. It doesn't seem to get reported. I want to see news reports that say something like this: ''Even if the other side's Presidential candidate's plan raises taxes on folks making $250,000, millions of taxpayers make less than $250,000 and will still see a tax increase.''

That is end of my proposed quote, but you will never see it in the newspaper.

I also want my friends in the punditry and media to connect the dots. If more people are paying higher taxes, the result is less discretionary income and of course slower economic growth. That is the same thing that is going on with high gas prices. The press doesn't seem to have a problem reporting that fact, but it still ends up with the consumer having less discretionary income.

I fought both Democrats and Republicans. I hope I have a reputation of taking on a cause and not worrying about whether it is a Republican cause or Democrat cause. So I have fought both to ensure that our country is on the right course. That course must be and is economic prosperity. I wish to see a real discussion of the negative implications of changing current economic policy. With high gas prices squeezing taxpayers, it is more compelling than ever.

Let's clear away the fog about what is meant to be negative about the Bush tax cuts, because broad-based tax increases are not gauzy ''feel good'' economic changes. Let's examine the benefit of keeping taxes low.

While I have the floor, I wish to speak on an issue that is coming up for a vote. This is the Medicare vote in a little while.

The vote we are going to take later today is a very important one—important for our senior citizens and important for all health care practitioners around the country. The outcome of that vote will determine whether we begin working together again on a bill that the President will sign. For the sake of 40 million Medicare beneficiaries, I am here now to urge my colleagues to defeat the cloture motion today. Then we can get to work on a bipartisan basis and write a bill that can be signed into law. That is something Senator BAUCUS and I know how to do.

This afternoon the Senate will be voting to move forward on a bill that will be vetoed and will mean a lot of lost time—not only for the Senate, but we have to get these things done by July 1. With a Presidential veto, I doubt we will. This is a pointless exercise, then, that can be stopped in its tracks by a ''no'' vote on cloture.

What is worse, the reality is that the bill is not even ready for serious consideration. Members of the Senate, it is very incomplete, obviously incomplete. It was introduced with blanks and brackets. It will not become law.

It cuts oxygen reimbursement. It cuts power wheelchair reimbursement. It threatens future physician updates. The danger is July 1, doctors get cut 10.6 percent if we do not intervene. It is a partisan bill that delays bipartisan consideration of the Medicare bill.

While the Senate wastes time with this bill, millions of taxpayers' dollars in administrative costs are also going to be wasted because the Center for Medicare Services has to program their system to not have the physicians' pay cut go into effect July 1. But they can only do that if Congress can pass a bill that can be signed by the President.

Voting for this bill is the same as asking for the physician pay cut to go into effect. If it does, then CMS has to potentially hold millions of claims, to process them later. That costs millions and millions of dollars a week. If the Senate votes cloture on this bill, we may as well be taking a match to millions of taxpayers' dollars.

We had been working in a bipartisan process that could get us a bill that could be signed into law. For some reason the majority walked away from the table. That was kind of recently, during the end of May. With all due respect to my friends on the other side of the aisle, in the 3 weeks since they have produced a bill that, for all the rhetoric we are hearing about it, is not worth the paper it is printed on. It will not become law. It will be vetoed.

Meanwhile, doctors in this country are looking at the calendar, wondering what their payment will be after June 30, and wondering whether they can still afford to see Medicare patients. They are wondering if they have enough cash reserves if Congress doesn't get its act together.

I want to say something to the doctors back home who are listening to this debate. They tend to be very busy, so I don't expect a lot of them to be listening, but if they are I want to have them hear this. Your insider Washington lobbyists are telling you that supporting cloture is the best way to prevent the physician pay cut from going into effect July 1. I think these high-paid lobbyists here in Washington are giving you, the family practitioners and surgeons and interns back home, bad advice. It is a good thing they are not giving the advice to real patients, as you do, if this is the kind of judgment they would use. The fact is, a vote in support of cloture is the absolute worst thing that could happen if you want the physician payment update addressed by the date it ought to be ready for CMS to carry it out, July 1.

If 60 Senators support cloture we will move to pass a bill out of the Senate. Of course that will be a bill that will be vetoed. Then the Senate will sit down with the House on a partisan basis and produce a compromise that has even more spending yet, and is even more liberal and more certain to be vetoed. Then it will be voted on in the House and come back here for a vote. Then, finally, it will go to the President where it will be vetoed. Then we will have a veto override that will certainly fail.

Then and only then—how many weeks away that is I don't know—we will sit down again on a bipartisan basis to write a bill that will become law. Given how quickly things move around here, that could well be at election time. If cloture fails, I am ready to roll up my sleeves and go to work tonight. So, to all the doctors listening to this wherever you are—in your hospitals, your homes—and to folks who pay dues to groups such as the American Medical Association and to the American College of Physicians, hear me when I say the people telling you that supporting cloture is the way to get the physician payment update done fastest do not deserve the jobs they hold and the hundreds of thousands of dollars you pay them. The answer is a simple one. We need to defeat the cloture motion today and we need to get back to bipartisan work to protect Medicare for America's seniors and the providers who serve them.

Yesterday Senator MCCONNELL, the Republican leader, and I introduced a bill, S. 3118, to address the problems we face in Medicare. The Democrats are blocking our bill from getting a vote today. It is too bad, because this is a very good bill. I spoke of some of the provisions of this bill in the last several days. It is a bill that clearly serves Medicare beneficiaries. Our bill reduces medication errors with stronger e-prescribing provisions. This will help ensure that our seniors' health care is not compromised by duplicative, dangerous, and incompatible prescriptions.

Our bill helps patients who have had a heart attack with cardiac and pulmonary rehab. Our bill ensures that

seniors who need access to outpatient therapy services will continue to receive the therapy they need.

I am very pleased our bill pays a tribute to our beloved departed colleague, Senator Craig Thomas of Wyoming, by including a number of provisions that protect access for beneficiaries in rural America. Specifically, our bill would accomplish helping rural America by addressing inequitable disparities in the Medicare reimbursement between rural and urban providers, and helps ensure these providers are able to keep their doors open.

By continuing to fund two important and very successful programs to combat diabetes, our bill helps people with that dread health problem.

Finally, our bill includes a number of extensions to help low-income seniors and families.

As we close this debate—and the vote is about 35 minutes away—I think the vote is a very simple one. The President will sign a bill that preserves Medicare for American seniors and the providers who serve them. The President will sign a bill that will provide increases in payments for rural health care in America. The President will sign a bill that reduces payments to Medicare Advantage. The President will also sign a bill promoting value-based purchasing, electronic prescribing, and electronic health records. The President will then sign a bill that does not require cuts in oxygen payments or payments for power wheelchairs.

Unfortunately, regarding the bill we will be voting cloture on, the vote is to move forward on a bill that is not a bill. I have described that. I am not going to go into greater detail.

People back home often don't understand votes on procedural motions such as the one we call cloture, which we will have at 3. But this one ought to be very easy to understand. Voting for this bill is a step backward; it is not a step forward. It will not become law, and we have to get something to the President that he will sign by July 1 to avoid doctors taking Medicare cuts of 10.6 percent.

I ask my colleagues to vote ''no'' on the cloture motion so we can get to work on a bill the President will sign. Let's set aside partisan games and get to work protecting Medicare for America's seniors.

I yield the floor.

Mr. President, since I do not see other speakers, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, unless we act, on July 1 the law will cut Medicare payments to doctors by 10 percent. Today, we have an opportunity to vote on proceeding to a bill that will stop that cut. In addition to averting the 10-percent payment cut, the bill on which we will vote today will also make important improvements for beneficiaries.

It will help those with very modest incomes to get the help they need, and it will expand access to preventative benefits in Medicare. We should all agree that prevention is critical to moving our health care system from one that treats disease to one focused on wellness.

The bill includes a provision intended to give a boost to primary care physicians. These represent a downpayment on changes that I would like to consider in the near future to advance the role of our front-line physicians.

The bill will improve access to health care in rural areas. The bill includes many policies from the Craig Thomas Rural Hospital and Provider Equity Act, all supported so strongly by so many Senators.

The bill will lend a hand to pharmacists. Pharmacists face so many challenges right now. And the bill will help ambulance providers. Today, these first responders must contend with record high and rising gas prices.

That is what this bill will do. It is a good bill, it is a balanced bill, and it is a bill that my colleagues should be proud to support. Let me also talk about what this bill would not do. I have heard some claims made about the bill. I would like to set the record straight.

First, the bill would not make drastic cuts to Medicare Advantage payments. This is not the House-passed CHAMP bill. Although I believe there is justification for making significant reductions to Medicare Advantage benchmarks, this bill will not do that. This bill would not affect the benchmarks in Medicare Advantage.

Second, this legislation will not eliminate private fee-for-service plans. What it will do instead is take away the ability of these plans to ''deem'' doctors and hospitals into their networks. Right now private fee-for-service plans are permitted to circumvent network requirements. They can deem any Medicare provider to be part of the plan network. They can do so without any formal agreement between the provider and the private fee-for-service plan.

What does that mean? That means that doctors and hospitals are automatically considered by the plan to have agreed to all the terms and conditions of the plan automatically. They are automatically considered to have agreed to payment levels, to patient cost-sharing obligations, and to billing procedures, even when they have not made such agreements.

So it is no wonder that we hear from providers that they do not like dealing with these plans. I would go so far as to say that forcing doctors and hospitals to accept the terms that plans lay out, without a chance to negotiate, seems un-American.

How will this legislation address deeming? It will eliminate this deeming authority in 2011—yes, 2011; not right now but 2011; not next year, not 2010 but 2011. The plans would have 2.5 years to develop a network. I believe that is plenty of time.

Moreover, the bill will protect choice in rural areas. The deeming provisions will only affect areas where there are already two or more plan options available that have a network. In those areas where existing plans have contracted with providers to form a network, private fee for service has a competitive advantage. This bill will level the playing field across all plans.

Second, this bill will not cut teaching hospitals. It will not jeopardize access to plans in areas where academic medical centers are most prevalent.

Right now, Medicare pays twice for indirect medical education on behalf of patients in Medicare Advantage plans. Medicare pays once when it reimburses teaching hospitals directly for IME costs, and Medicare pays a second time by inflating payments to Medicare Advantage plans for the same costs. So under this bill, teaching hospitals will continue to receive IME payments directly from Medicare, but the unnecessary double payments will be eliminated.

Third, this bill will not allow wealthy seniors to qualify for low-income subsidies, as has been claimed. The bill will raise the asset test from $4,000 to just under $8,000 for individuals. And it will raise the asset test from $6,000 to $12,000 for couples. The bill will give more seniors with very limited means the ability to qualify for additional subsidies.

The income cut-offs to qualify for the subsidies will remain the same. Beneficiaries will need to have incomes below $10,200 for the Qualified Medicare Beneficiaries Program, and below $12,500 for the Specified Low-Income Medicare Beneficiaries Program. That is under current law, no change.

I think we all would agree that anyone with an annual income below $12,500 and personal assets below $8,000 is someone we should want to help. And if we can get the 60 votes to get to this bill, I will do something else. I will offer an amendment to delay implementation of the competitive bidding program for durable medical equipment. That is a pledge that I made to many of my colleagues, and it is a pledge that I make publicly, a promise I intend to keep.

I will offer as an amendment the language of the bipartisan bill introduced earlier today in the House by Representatives STARK, CAMP, BOEHNER, and PALLONE. Their bill is thoughtful, it is balanced, and it responds to many of the concerns we have all heard from the DME industry. If we get to this Medicare bill, we will include that language in this bill.

Another policy in S. 3101 that I intend to revisit is oxygen cuts. Congress needs to address overpayments to oxygen. In some cases, Medicare pays 1,000 percent above what these supplies cost, and beneficiaries pay the price through inflated copayment rates.

But this is a limited bill. It is not intended to fix all that ails Medicare. We will revisit oxygen payments when the Congress next takes up Medicare. By my estimate, that would be next fall when the 18-month physician fix and other policies will expire.

In sum, time is running out. It is running short. We need to complete a bill by June 30. That is not many days away. The options before us are few and fraught with pitfalls. By far, the best option for getting a Medicare bill done this year is a bill on which we will vote today.

This bill is bipartisan. It is carefully balanced. It does what we need to do. I urge my colleagues to vote for cloture on the motion to proceed.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I yield myself 5 minutes from time that is reserved for the leader or, alternatively, from time that is available at this point that is open.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. I ask the Chair if there is time presently available?

The PRESIDING OFFICER. There is 10 minutes for the minority leader.

Mr. GREGG. Mr. President, I rise to raise my concerns about the procedure and about the substance. We all know there has to be a fix relative to the doctors. We all know we cannot have this sort of reduction in payments to physicians. That is just a fact.

My own personal preference is that we fix this permanently. It is going to cost a lot of money, but that is the way it should be done. We should not be fixing this every year. And, in fact, it is becoming a geometric progression which is spiraling downward, with every year becoming a much more difficult effort.

We should basically do Medicare reform. But short of that, we should do a permanent doctor fix so that the physicians in this country know they are going to get a reasonable upgrade of their reimbursement every year. We should not have to go through this.

However, this bill does not accomplish that. In fact, this bill aggravates the problem significantly. I genuinely wish the bipartisanship effort which Senator BAUCUS and Senator GRASSLEY had been pursuing had been the effort that had come to floor, but it did not.

What has come to the floor is a partisan effort; regrettably, it is not a very good one. It has a couple of practical problems, and then it has a very substantive problem. The substantive problem is that it spends $2 trillion that we do not have, not to fix the doctor problem but to add new benefits in certain elements for certain recipients under Medicare Part D. Well, Medicare Part D is already $36 trillion in debt, unfunded liabilities. Put $2 trillion more on top of that, it means we are passing a huge cost on to our children. It is not fair. It is not appropriate.

The practical problem this bill has—I find it incredible that we are being asked to vote on it, quite honestly—is that it has blanks. This is the first time I have ever seen this. This bill literally has blanks in it. We are being asked to vote on a bill where the numbers, which are operative relative to how much this bill is going to cost, are left out. There are actually parentheses with nothing in them. There are lines where there is a blank. And we are being asked to vote to close the debate on this and move to final passage on this without even knowing what the numbers are going to be which are to fill in those blanks.

This is so egregious, so egregious, that the CBO, which is the independent scorekeeper around here, which is the fair umpire around here, has written us and said: They cannot score this bill. They cannot give us a cost estimate since the introduced version has blanks.

The Congress should not work this way. The Senate should not work this way. This is totally inappropriate. It is a terrible precedent. It is worse than a terrible precedent. It is an incompetent precedent to set to bring to the floor a bill that does not tell us how much it is going to spend because the other side of the aisle does not want to tell us how much it wants to spend or, alternatively, because they are not competent enough to put numbers into the bill.

It is incredible to me that we would be asked to vote cloture on a bill that the Congressional Budget Office says they cannot estimate the cost of, which is their responsibility, because it has blanks.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 11, 2008.

Hon. JUDD GREGG,
Ranking Member, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR SENATOR: As you requested, enclosed are CBO estimates of the costs of the provisions of S. 3101, the Medicare Improvements for Patients and Providers Act of 2008, as introduced on June 6, 2008.

As you noted in your request letter, some of the provisions of the introduced bill are incomplete: there are some elements that are necessary to producing a cost estimate for the bill that are not included in the current language. In addition, a number of elements in the bill are bracketed and thus could be considered subject to change.

The enclosed table contains estimates for those provisions of the bill for which we can estimate the costs, but does not include a CBO estimate for the total cost of the bill since the introduced version has blanks for some of the values for key provisions. For the purposes of these estimates, CBO assumed that all bracketed language would have full force and effect.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Tom Bradley.

Sincerely,

PETER R. ORSZAG.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, our greatest successes in this Congress have come when both sides have worked together. We saw it last year on the Energy bill when we increased the CAFE standards to historic levels and, more recently, the first thing this year on the economic stimulus package.

We started initially down the path of compromise when we began the Medicare discussions. Both sides wanted to prevent cuts to physicians in the Medicare Program and to preserve access to the quality of medical care our seniors have come to depend upon.

Unfortunately, the majority walked away from these bipartisan discussions. In an effort to preserve some of the progress, protect benefits for seniors, and to produce a bill that can be signed into law, Senator GRASSLEY crafted a Medicare bill which, if it were to be passed today, it would be signed by the President of the United States.

Senator GRASSLEY's alternative, which I will shortly ask consent to go to, includes a 1.1 percent increase in the physician update, protection for patients who need extensive therapies following a stroke, 2 years of funding for the special diabetes program, a new cardiopulmonary rehabilitation benefit—this is, by the way, especially important to Kentucky where far too many of our citizens struggle with pulmonary diseases.

There is a new program to improve care and save money by encouraging doctors to write prescriptions electronically, a very important step in the right direction. And it also preserves patient choice and access to Medicare Advantage, which helps retired Kentucky teachers.

We all know what is going to happen. Once this bill is not proceeded to, we will have bipartisan negotiations, which is the way this process started out in the first place and, frankly, the way it will ultimately end. That is the way the Senate does its best work. Having said that, I have notified my friend, the majority leader, that I did have a consent agreement to propound. I see that he is now on the Senate floor. I will ask that consent at this time.

I ask unanimous consent that the pending motion be temporarily set aside and that it be in order for the Republican leader to move to proceed to S. 3118, a bill introduced by Senator GRASSLEY to extend expiring provisions under the Medicare Program and to file cloture on that motion. I further ask that the cloture vote on the motion to proceed to S. 3118 occur immediately following the cloture vote on the motion to proceed to S. 3101. I further ask that if the motion to proceed to either

Medicare bill is adopted, no other pending business be displaced.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, on the floor now is the Presiding Officer and the chairman of the Finance Committee. Two more bipartisan Senators we do not have in the Democratic Caucus, Senators always willing to work with the other side. They both have reputations—BAUCUS in Montana, NELSON of Nebraska—of working with the other side. There is no partisan advantage in the minds of either one of these Senators.

Why can't we move to this bill? If there is a way to improve it, let's improve it. That is all we want.

Mr. MCCONNELL. Parliamentary inquiry: Is this an objection?

Mr. REID. Why do we have to go through this routine of stopping—

The PRESIDING OFFICER. Is the leader asking for the regular order?

Mr. REID. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. I have time set aside at this time. Why in the world do we want to object again?

Mr. President, downtown this morning one of the Republican Senators whose name I won't mention said, meeting with a number of people downtown—this Republican Senator said: There is a lot of frustration within the Republican caucus about blocking motions to proceed.

Of course, there is. The Republicans don't like it. Why do they continue to do this? We want to legislate on this important piece of legislation. It is not only a doctors fix, it is a fix to our health care delivery system.

I am disappointed very much that the Nelsons of the world, the Baucuses of the Senate world can't work together in a bipartisan basis. They want to. I received a call before lunch, before I went to our policy luncheon, from a Republican Senator. He said: Are you going to fill the tree? I said: Of course, I am not going to fill the tree. Why would I? He said: OK. I will vote with you. So I know at least we have one Republican vote. He told me he is going to vote with us on cloture. I hope others would follow with that.

In 1965, President Lyndon Baines Johnson traveled from Washington, DC to Independence, MO to join former President Harry Truman in Harry Truman's hometown of Independence, MO. The purpose of the trip and the meeting between the current and former Presidents was to sign into law a bill Harry Truman had conceived and Johnson had championed. The new law created Medicare.

I know a little bit about Medicare. My first elective job was in 1966. I was elected to the Southern Nevada Memorial Hospital board of trustees. It might not sound like much to anybody but to me that was important. I beat an incumbent. At the time I took that job—I was there for 2 years—40 percent of the senior citizens who came into our hospital had no insurance. What did we do? We had them sign a certificate or we would not let them in the hospital, unless a father, a mother, a husband, a wife, a brother, a sister, or a friend agreed to pay their bill. If they didn't pay the bill, we had a collection department, and we went after them big time, as they did every place in the country.

Medicare came into being. When I was there, before I left, Medicare came into being. Now 99-plus percent of older people who go into hospitals in America have Medicare insurance, a pretty good deal. That is why Truman thought of it. That is why Johnson implemented his thought process. The new law they were there to celebrate created the Medicare Program, a program that has ensured quality health care to America's senior citizens for more than four decades. Since Johnson signed the bill and gave Truman the first ceremonial Medicare card, hundreds of millions of senior citizens have also received their Medicare card. With each new Medicare card issued, our country renews its commitment to bedrock values of those who have worked hard and made their contribution to society, and they deserve to know they will be cared for as they reach those golden years.

But even on the day that bill was signed, President Johnson acknowledged the bill was imperfect. Who were the Senators who voted against Medicare when it came into being? Who were the Senators who recognized they would not vote for that bill? All Republicans. Every person who voted against Medicare's implementation was a Republican Senator. They haven't changed. They reluctantly do what they can for Medicare, but they don't support it.

President Johnson acknowledged it was imperfect. For all the good Medicare has done our Nation's seniors through the years, for all the good it has done for them today, it could be better. Our efforts to make Medicare work better continue today with the Medicare Improvements Act. That is what the chairman of the committee was trying to do, make it better. That is what this is all about.

I am grateful for the work of Senator BAUCUS, chairman of our committee. Anyone who knows, I repeat, the Senator from Montana is well aware of his ability to work with both sides of the aisle to forge bipartisan solutions. On this legislation, Senator BAUCUS worked tirelessly with Democrats and Republicans. He reached out to the Bush administration and to the Republican leader. In these efforts, though, he was met with a reluctance to move forward, reluctance that has sadly become the rule, not the exception, among our Republican colleagues. Nevertheless, Senator BAUCUS moved forward. He worked side by side with Democrats and willing Republicans to create a bill that would make Medicare work better for millions of senior citizens.

Senator BAUCUS laid out the many virtues of this legislation yesterday so I will do no more than summarize the key points of this most important legislation. The Medicare Improvements Act provides increased coverage for Medicare. This is so important. There is no better way to treat illness than true preventive care. Not only will this enhanced preventive coverage improve the health of Medicare recipients, but it will also save taxpayers in the long run from the astronomically higher costs associated with treating serious illnesses which could have been avoided with preventive care.

This legislation also makes mental health care more affordable. I have worked throughout my time in Congress to shed light on the tragic but all too often hidden cost of depression and other mental health problems among older Americans. Sometimes depression among seniors leads to suicide. There is no group of Americans that dies more than seniors from suicide. Medicare currently discourages beneficiaries from seeking care for mental illness by requiring a 50-percent copayment for mental health services versus a 20-percent copayment for physical health services. This legislation will eliminate that disparity and expand coverage for medications to treat mental health illnesses.

The Medicare Improvements Act also makes it easier for low-income seniors to access benefits by extending the Qualified Individuals Program, increasing eligibility for the Medicare Savings program and eliminating the drug benefit penalty. And for all seniors, this bill provides funds for State and local programs to help navigate through the program and ensure the greatest benefits possible.

When President Johnson signed Medicare into law in 1965, he acknowledged that for all the good this program would do, I repeat, it wasn't perfect. That has not changed today. For all its virtues, far too many seniors are not accessing the care they earned and to which they are entitled. Far more can be done to prevent and treat physical and mental illness to provide older Americans with the very best quality care we can provide them. Will the Medicare Improvements Act make Medicare perfect? No. But there is no question it will make it better, far better. There is no question it will help millions of Americans access Medicare and get the most of its benefits once they do.

There has been some talk of Republicans refusing to join Democrats to support the motion to proceed to this legislation. That is what the Republican leader said today. He told all of his Republicans: Don't vote for this. We will work out something better. That is the process. The process is not the status quo. If there are improvements they want to make, there is no bigger listener than MAX BAUCUS of the Finance Committee. He will manage this bill. But if they follow the lead of

the Republican leader, they are being led off a cliff. Republicans wouldn't just be refusing to support the bill, they would be refusing to let us even move to debate it. They would be stopping this crucial legislation in its tracks and deny any possibility of progress or compromise in the near future.

I hope people on the other side will follow what I read to them from a Republican Senator downtown this morning: There is a lot of frustration within the Republican caucus on blocking motions to proceed.

And well there should be.

I will use leader time, Mr. President.

I can't imagine why all 100 Senators would not flock to quickly pass this legislation, much less why they would not all vote eagerly for the motion to proceed. Denying debate on the Medicare Improvements Act and denying its passage would be a grave disservice to tens of millions of Americans over age 65. It would be a slap in the face to all those who suffer silently through mental illness because they can't afford the treatment that would make them well. Opposing this legislation and clinging to the status quo, as I fear some Republicans may choose to do, would be an abandonment of our decades-old commitment to honoring and caring for senior citizens in the manner they deserve.

In Independence, MO, 43 years ago, President Johnson said this:

> Many men can make many proposals. Many men can draft many laws. But few have the piercing and humane eye which can see beyond the words to the people they touch.
>
> Few can see past the speeches and political battles to the doctor over there that is tending the infirmed, and to the hospital that is receiving those in anguish, or feel in their heart the painful wrath at the injustice which denies the miracle of healing to the old and to the poor.
>
> And fewer still have the courage to stake reputation, and position, and the effort of a lifetime upon such a cause when there are so few that share it.
>
> But it is just such men who illuminate the life and history of [this] nation.

Because times have changed in 43 years, I call upon the men and women of the Senate to do the right thing and let us move to this legislation. It is the right thing to do. President Johnson's words go to the heart of this country. People need to vote their conscience, not the status quo.

Mrs. BOXER. Will my friend yield for a brief question?

Mr. REID. I have time? OK.

Mrs. BOXER. In a minute or less, I am rather stunned to hear that the Republican leader is suggesting that Republican Senators vote no to move to a bill for the purpose of making improvements in Medicare. I ask my friend, because people sometimes lose track of what happens, would this not be the third straight bill in a row where the Republicans have been fierce defenders of the status quo—global warming, gas prices, and now fixing Medicare? Am I correct on that?

Mr. REID. I say to my distinguished friend from California, it has gotten so out of hand that we are having trouble keeping up. We now have on filibusters 75, but we have it on Velcro because we know they will add another one to it in the near future. We also have Velcro as to what they are blocking on a given day. We pull it off because yesterday they were blocking global warming. The day before they were blocking gas prices, today Medicare improvements. It has gotten so difficult around here that we have Velcro as to what they are stopping.

If there is no more time to be used on the Republican side, we could start the vote early. We are going to start the vote early. We were going to consider having it started at 3 o'clock. There are some people who want to leave and we have some coming back. Anyway, I have gotten a nod to yield back all time for both Democrats and Republicans, and I ask that the vote start.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 772, S. 3101, the Medicare Improvements for Patients and Providers Act of 2008.

Harry Reid, Max Baucus, Jon Tester, Barbara Boxer, Benjamin L. Cardin, Bernard Sanders, John F. Kerry, Patty Murray, Maria Cantwell, Blanche L. Lincoln, Ken Salazar, Charles E. Schumer, Ron Wyden, Patrick J. Leahy, Jeff Bingaman, Debbie Stabenow, John D. Rockefeller, IV, Jack Reed.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 3101, the Medicare Improvements for Patients and Providers Act of 2008, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana (Ms. LANDRIEU) would vote ''yea.''

Mr. KYL. The following Senators are necessarily absent: the Senator from Arizona (Mr. MCCAIN) and the Senator from New Hampshire (Mr. SUNUNU).

The PRESIDING OFFICER (Ms. KLOBUCHAR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 39, as follows:

[Rollcall Vote No. 149 Leg.]

YEAS—54

Akaka	Durbin	Nelson (FL)
Baucus	Feingold	Nelson (NE)
Bayh	Feinstein	Pryor
Biden	Harkin	Reed
Bingaman	Johnson	Roberts
Boxer	Kerry	Rockefeller
Brown	Klobuchar	Salazar
Byrd	Kohl	Sanders
Cantwell	Lautenberg	Schumer
Cardin	Leahy	Smith
Carper	Levin	Snowe
Casey	Lieberman	Specter
Coleman	Lincoln	Stabenow
Collins	McCaskill	Stevens
Conrad	Menendez	Tester
Dodd	Mikulski	Webb
Dole	Murkowski	Whitehouse
Dorgan	Murray	Wyden

NAYS—39

Alexander	Craig	Isakson
Allard	Crapo	Kyl
Barrasso	DeMint	Lugar
Bennett	Domenici	Martinez
Bond	Ensign	McConnell
Brownback	Enzi	Reid
Bunning	Graham	Sessions
Burr	Grassley	Shelby
Chambliss	Gregg	Thune
Coburn	Hagel	Vitter
Cochran	Hatch	Voinovich
Corker	Hutchison	Warner
Cornyn	Inhofe	Wicker

NOT VOTING—7

Clinton	Landrieu	Sununu
Inouye	McCain	
Kennedy	Obama	

The PRESIDING OFFICER. On this vote, the yeas are 54, the nays are 39. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Madam President, I enter a motion to reconsider the vote by which cloture was not invoked on the motion to proceed to S. 3101.

The PRESIDING OFFICER. The motion is entered.

Mr. REID. Madam President, I now withdraw the motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

The majority leader is recognized.

Mr. REID. Madam President, first of all, let me say I really appreciate the nine Republicans who voted to proceed. I appreciate that. We want to legislate. I think there is an indication that maybe things are getting to a point where we are going to be able to do that. I hope that, in fact, is the case.

RENEWABLE ENERGY AND JOB CREATION ACT OF 2008—MOTION TO PROCEED

CLOTURE MOTION

Mr. REID. Madam President, I move to proceed to Calendar No. 767, H.R. 6049, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 767, H.R. 6049, the Renewable Energy and Job Creation Act of 2008.

Harry Reid, Max Baucus, Barbara Boxer, Amy Klobuchar, Benjamin L. Cardin, E. Benjamin Nelson, Maria Cantwell, Patty Murray, Bernard Sanders, Daniel K. Akaka, Robert Menendez, Ron Wyden, Debbie Stabenow, Blanche L. Lincoln, Patrick J. Leahy, Richard Durbin, Sheldon Whitehouse.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Madam President, parliamentary inquiry: Is it appropriate to speak now as in morning business?

The PRESIDING OFFICER. Yes, by unanimous consent.

Mr. DOMENICI. I ask unanimous consent to speak for 15 minutes, and I ask the Chair to advise me when I have 2 minutes remaining. I also ask unanimous consent that Senator DODD be recognized following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDRESSING HIGH GAS PRICES

Mr. DOMENICI. Madam President, over the last several weeks, I have come to the Senate floor to discuss my ideas on how to address the high price of gasoline in this country. I understand the toll these high prices are taking on the American people, and I understand the grave consequences of continuing our cycle of dependence upon foreign oil.

Americans are looking to us for some solutions and leadership. But, so far, all they are getting is gridlock and fighting. However, I think there are some things that we ought to be able to come together on that would truly address the fundamental global supply and demand imbalance. Today, I would like to talk about them with the Senate and anybody who is interested out in the hinterland of America.

This morning, my friend, the senior Senator from New York, said the Republican leader was incorrect in his assertion that the Democrats do not want to increase American oil and gas production. I was glad to hear him say that because given the votes that the other side has taken, I had my doubts. Just in the last month alone, they have opposed exploring in Alaska, opposed deep sea exploration, opposed lifting the moratorium on final regulations for commercial leasing of oil shale, and they have opposed converting coal to liquid fuel. That liquid fuel could be used by the U.S. military, as an example. They will be using it in one way or another. They could use the liquid that comes from conversion from coal.

In fact, in the past, a large majority of the other side of the aisle has opposed taking inventories on our U.S. lands to simply find out how much oil and gas we actually have. Why would that proposition be objectionable? Wouldn't it seem appropriate, with such large resources offshore, that we would inventory them, even if it costs some money? The amount we could find out there may be terrific and tremendous in size. Yet we have had objection to even doing that.

If the United States were to explore in our deep sea and move to develop our vast quantities of oil shale—just those two things—we could completely shift our dependence upon foreign oil in ways I suspect my friends on the other side of the aisle don't even realize. The amount of oil shale potential alone in our Nation is massive. This morning, I met with officials from the Department of the Interior who told me that in the coming decades, American companies are predicting production of up to 3 million barrels per day from our American oil shale. That gives us a good idea of just how much our Nation has at its disposal that we are not taking advantage of.

Nevertheless, my friend from New York pointed out that he supported my effort in 2006 to open a portion of the Gulf of Mexico to exploration. In fact, he even said he ''helped lead the charge.'' Well, if that was the case, then I invite him to help me once again lead the charge to increase domestic production. Everything I have tried so far, his side has said no to. Tell me, what proposal will get them to say ''yes''? The Senator knows that I have been here a long time, and I have had a hand in passing many pieces of legislation. I understand it usually takes some bipartisan compromise to get something done. So I say to my friend, on the production side, how can we compromise?

One reason I have been so discouraged about our ability to get something done is because even a limited, reasonable proposal to allow one single State to explore natural gas was rejected by the other side last year. My good friend from Virginia, Senator WARNER—who you all know is respected for his bipartisanship—introduced an amendment a year ago this week, with Senator WEBB's support, that would have allowed his home State to conduct natural gas exploration in the deep sea over 50 miles off the coast. He did this because the Democratic Governor of Virginia, and Republicans in the legislature expressed interest in possibly developing Virginia's coastal resources.

It all sounds pretty reasonable, doesn't it? What is the harm in letting Virginia explore for natural gas if Virginia is interested in it? And yet Senator WARNER's amendment was defeated by the Senate. Six Members from the other side of the aisle voted for it, and 39 voted against it—including my friend from New York.

America has enormous oil and gas resources. Total offshore oil reserves are around 85.9 billion barrels of oil. Over 19 billion of that is completely off-limits for exploration. On shore, we have 30.5 billion barrels of oil, and over 60 percent of it is considered off-limits. We have over 1.6 trillion barrels of oil equivalent in oil shale, which is the equivalent of more than three times the oil reserves of Saudi Arabia.

This policy of taking our own resources off the table simply makes no sense, especially when we face a price of $135 per barrel of oil and $4 per gallon of gasoline. No other nation in the world deliberately prevents itself from using its own resources. Look around the world—Brazil, Norway, Mexico, the United Kingdom, Russia and many others. They are producing their own oil and gas off of their own shorelines. So I sincerely hope that my friends on the other side of the aisle will join with me to try to find a way to allow States that wish to explore 50 miles off their coasts to be able to do so.

The other side of the aisle frequently tells us that we can't drill our way out of this problem. This morning, the majority leader said that the ''answer to this is not drill, drill, drill.'' I agree with him. He is right. The answer to this problem is not just ''drill, drill, drill.'' There is no question that our long term future requires us to find solutions other than drilling. We need to reduce our dependence on oil from all sources. But we need to build a bridge to help get us there. On the far side of the bridge is a world in which cellulosic ethanol and plug-in hybrid vehicles are available and deployed on a wide scale basis. But in the near term our experts tell us we need oil to fuel our economy and our lives. So the question remains: is Congress going to choose to create jobs and revenues in America by exploring for our own oil and gas, or are we going to continue to increase our deficit by purchasing foreign oil in greater quantities?

In order to get across this bridge I just described to secure an energy future, we need to develop our own natural resources. So let's build this bridge to a cleaner, more independent energy future by increasing domestic production here at home. It will take time and investments. Congress has already made great progress developing these resources for the long term and for the future of this country, but we are falling short in the near term. So let's come together in a bipartisan fashion to build a bridge to the future and begin to reduce our reliance on foreign oil.

I truly believe that if we decided we could do this, the independence that would be shown to the world because of the great quantities we could say we would produce for ourselves, for the world inventory, would have an immediate impact on those who are speculating and those who are counting on a future of shortage. When they see the United States is going to do something about it, it can do something rather significant, I am convinced.

We don't need to look at those other countries in awe when we have at home great resources that we are refusing to explore just because we refuse to do it. There should be no higher priority than the exploration of these resources, unless it is some great national interest that takes over and takes place and displaces this enormous interest we have to stop sending $125 a barrel to a foreign country for every barrel of oil we use.

I repeat what I have said before: We are growing poor—p-o-o-r. Our economy is not flourishing, and we are asking why. We are being given all kinds of reasons. This Senator says one of the big reasons is that we are approaching the time when we will have sent $600 billion a year to foreign countries just for the crude oil we consume at home. If we have some of that locked up offshore of our country, we should say: Where is it, and what damage will it do if we use it? The answer will probably be that we have plenty and there will be no damage to use it. And if we move it out 25 or 50 miles from the shoreline into deep waters, there will be no damage to anyone.

This technology has been perfected. Hurricane Katrina hit a part of the offshore where we had many of these rigs. Some were old and some were brandnew technology. It didn't matter, the technology was strong enough to where there was no leakage, no oil was spilled.

I believe my friend has been waiting; therefore, I will not use my last 2 minutes. I will certainly yield to my good friend from Connecticut. I told the Senator that if he lets me go first, good things would follow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

ENERGY PRODUCTION

Mr. DODD. Madam President, I thank my colleague from New Mexico, who is a wonderful friend. I appreciate his kindness and generosity.

I wish to speak, if I may, about the so-called Merida Initiative. This is a proposal which was made by President Bush, along with President Calderon of Mexico, to deal with the raging drug violence that is occurring along the Mexican border, particularly in Mexico itself. However, I also wish to briefly address, if I may, the issue of energy production.

We had this debate earlier this week on energy issues. I know one of the arguments being raised is, of course, that we are denying the oil and gas industry the opportunity to drill for more of these products off our own shores, and if we did more of that, then we would be reducing our problems and bringing down costs.

Let me announce to my colleagues that I intend to propose legislation directly addressing this issue of oil production and development. I commend the Members of the other body—Congressman MARKEY, Congressman HINCHEY, Congressman RAHALL, and Congressman EMANUEL. They proposed a bill over there, which I will offer here, which addresses this issue.

We hear this argument that if we allow production in the Arctic National Wildlife Refuge and some of the coastal regions, we will be in great shape. But, Mr. President, there are 44 million offshore acres that have been leased by the oil companies, but these companies have put only 10.5 million of those acres into production. Of the 47.5 million onshore acres under lease for oil and gas production, only 13 million are in production. Combined, oil and gas companies hold leases to 68 million acres of Federal land and waters on which they are not producing any oil and gas, despite the fact they have the leases and could be drilling there. Compare that with just 1.5 million acres of ANWR that proponents of drilling say they want us to open. The vast majority of oil and natural gas resources on Federal lands are already open for drilling, and they are not being tapped.

I hear complaints about the 1.5 million acres closed off in ANWR, and yet we are sitting on roughly 68 million acres under lease but not in production—why don't they talk about that?

So our bill is basically a ''use it or lose it'' lease idea. If you are going to sit on these leases and do nothing with them, then you ought to be paying a higher fee. In our proposal, this fee would be $5 per acre per year for the first three years. We would then raise the fee, if the property remains unused, to $25 per acre in the fourth year and to $50 per acre in the fifth year and beyond. This will be an incentive to companies to put these millions of acres where leases have already been granted for oil and gas production to actually use this land they control. This is our answer to the great complaint: Let us drill in ANWR. Why not use the leases you have already been given?

I will offer that legislation.

By the way, the revenue that would come in from those production incentive fees would be devoted to the development of wind, solar, other alternative energy ideas, weatherization programs, and, of course, low-income energy assistance, to help with what is sure to be a staggering cost for moderate and lower income families come next winter.

This is an idea that I think will debunk this notion that if we can only produce more by drilling in new areas, we will solve our energy problems. Well, why aren't you drilling on the millions of acres you have leases on already instead of complaining about 1.5 million acres or a few more offshore when there are literally millions of acres already under lease that oil companies are doing nothing with? If they are not going to drill on it, they are going to pay more.

MERIDA INITIATIVE

Madam President, I wish to address the Merida Initiative. As all of my colleagues are aware, this bilateral initiative, the Merida Initiative, is a proposal between the United States and Mexico designed to combat the shocking increase in drug-related violence in Mexico over the past year.

Last weekend, I spent the weekend at an interparliamentary meeting in Monterey, Mexico, with our colleague from Tennessee, Senator CORKER, at their annual meeting. This is the 47th gathering of the bilateral Members of Congress of the United States and Mexico to meet and talk about bilateral issues. I am pleased that this was my 20th or 21st year in which I participated in these bilateral meetings with our neighbors to the south. But the issue of the drug cartels and the violence they are causing in that country, not to mention our problems on the border, was the dominant theme of this past weekend's gathering. Much of the discussion, as I say, focused around this initiative, in large part because of the grotesque increase in drug-related violence in Mexico within recent months.

While in Mexico, I expressed my condolences to the Mexican people on behalf of our colleagues here and the American people for what they have gone through. Some 4,000 people, police officers, military personnel, have lost their lives to the drug cartels in recent months, including the assassination of the chief of police of the country, Millan Gomez, who was gunned down inside his home. Cartel members waited inside his house to assassinate him. This would be tantamount to the Director of the FBI being gunned down in his home in the United States. That is how violent these cartels are. That is how unafraid they are of any retribution. So I think the notion of cooperation between our two countries is absolutely critical.

Mexico, as I said, has been under siege, and they need and deserve a combined effort. Though it is the Mexican people who bear the brunt of so many of these problems they are facing, there are, indeed, common security challenges affecting both of our people. So let me say unequivocally that the United States is committed—I believe all of us are—to helping and working with our colleagues, our neighbor to the south, Mexico, to end such violence.

President Calderon of Mexico made a very sincere gesture in reaching out to the United States for cooperation in this battle. Combating drug trafficking and related violence and organized crime through intelligence sharing, law enforcement, and institution building is critically important.

But it was unfortunate that the proposal that was made to the Mexican Government by the Bush administration lacked any input or consultation with the respective two legislative bodies. That was not just a violation of good manners. Rather, if you are going to propose these kinds of initiatives, it is critically important that you invite the Members of Congress who will have

to appropriate the money and be responsible for the oversight of these programs. So at the outset you need to involve Democrats and Republicans in both Chambers, not because you fear they are going to object to the proposal, but because you are going to need their ongoing support.

In the case of the Merida Initiative, while all the good intentions are there, when you announce these proposals and do not invite input, you invariably end up with a train wreck that caused the problems that I had to listen to all weekend long in Mexico about whether we are putting conditions on these proposals, in some way limiting them or certifying this kind of financial assistance to Mexico, which was met with incredible hostility by every political party in the country—political parties that rarely agree on anything, by the way, but on the response to the Merida Initiative, there was unanimity among the political parties in Mexico despite what I think is a clear desire to see the kind of cooperation we absolutely need if we are going to have any success at all in taking on these cartels.

There also needs to be more accountability on both sides of the border. My primary concern is that Merida, as presented to both Congresses, focuses too much on the short-term fixes, which are of course needed, and very little on the longer term problems which we must address. I do not and would not object to this program on that basis alone, but I think it is important that we acknowledge this shortcoming.

No one denies that we need well-trained and well-equipped police forces to confront the most violent criminals, and no one doubts that Mexico urgently needs assistance fighting these violent criminals. They are tremendously well financed, and they are incredibly well armed. They have equipment and armaments that would compete with almost any military in the world, let alone a police force.

But what is equally needed is well-trained and well-equipped civilian judicial authorities and institutions to enforce and uphold the rule of law. We must work to combat corruption and do a better job of sharing intelligence.

These are all commonly held goals. We must tackle the larger, systemic problems which only exacerbate the drug trafficking and violence we witnessed over the last number of months.

Only by creating robust economic alternatives to the drug trade can the United States and Mexico together build the kind of future that reduces the number of people who enter into the drug trade either by force or by choice. That is why I am very supportive of an approach that more broadly promotes regional trade and political engagement, an approach that fosters sustainable growth through private investment, increased foreign aid, and supports regional institutions, such as the Inter-American Development Bank. Given our shared border of thousands of miles, the United States and Mexico must also deepen their bilateral partnership in ways that are mutually beneficial, such as more closely coordinating border security to ensure our goods and services can move through more effectively and efficiently. We should promote more business and cultural ties and more direct investment across the border as well. The United States must also support Mexico's integration with its southern neighbors as well and the role they play in both of our economies.

While a bilateral approach will be necessary, given the interrelated nature of our economies, a regional approach will be required to ensure effective and sustainable economic growth over the long term.

In addition to fostering sustainable economic development, we must also cooperate on financial intelligence and counter money-laundering programs and combat the black-market peso exchange which undermines the very economic alternatives we are trying to create on a bilateral basis.

In addition, of course, our own country must take responsibility for our contributions to the growing insecurity and to the violence that occurs in Mexico. Though we often fail to admit it or take action to address it, one of the biggest markets for illegal drugs, and by far the largest supplier of weapons to some of the most violent cartels in Central South America and Mexico, is, of course, our own country. Any sustainable effort to reduce trafficking and violence in Mexico must seriously address problems on both sides of the border, and here, I think, Merida, while it is a very good proposal and idea, falls a little bit short.

Despite all this, Merida is a very good first start, and I support it. Despite the failure of this administration to work with and consult Democrats and Republicans in both Houses, which should happen if we are going to succeed with this initiative, and despite the fact Merida is focused too much, in my view, on short-term fixes, and despite the fact Congress will most likely not be able to fully fund Merida as much as we would like—given problems in other places around the world, including Burma and Darfur, U.N. peacekeeping and food aid—this is a good beginning and it is deserving of our support—identifying the common concerns we share with our neighbor to the south.

While in Monterrey, I heard many concerns voiced by our Mexican counterparts about some of the language in the Merida Initiative, particularly language which many of our friends to the south are calling conditions in the legislation. Let me be clear, at least for my own part. The intent of the Senate language is not to condition our aid but rather to insist—as Mexicans ought to as well—on accountability from both our administration and from the Government of Mexico.

I, for one, am not going to sign off on a blank check that does not demand accountability from this administration. Of all the terrible lessons we learned from Iraq and Afghanistan, surely one is that more accountability can only be a positive thing, not only to guarantee taxpayer money is being well spent but also to sustain these programs over the longer term. That said, I understand Mexico's sensitivity to the idea of conditions, and I agree with those sensitivities.

Many in this Chamber will remember the arduous and contentious certification process we used to use to determine whether Mexico was cooperating in counternarcotics programs. My friend and colleague, Senator PAT LEAHY, has been a hero on these issues, to me and many others, over many years. His concern about human rights and accountability of dollars is long-standing and never focused on any country, or one specific issue. He is concerned, as he should and all of us should be, to make sure we abolish the certification process.

He was not only cooperative but also understood better than most when the debate raged in this Chamber about a certification bill, because rather then ensuring cooperation on counternarcotics operations, all certification ensured was that the United States and Mexico would simply feud day in and day out over what qualified—a development that benefitted no one but the drug traffickers.

So as a joint effort, we were able to change that certification process. And cooperation improved dramatically as a result, I might add. So I support the work Senator LEAHY is engaged in. I explained to our Mexican counterparts what his intentions were in regard to the Merida Initiative, and because of the negotiations we have had over the last number of days, I believe the Merida Initiative, as constructed, is going to work well and be received well.

The people of Mexico, indeed, Latin Americans in general, have no greater friend than PATRICK LEAHY, a Senator who champions human rights and has worked throughout his career to foster closer ties and change in our hemisphere.

The United States—including myself, Senator LEAHY, and others—is committed to addressing many of the concerns voiced by Mexico and to reaching a compromise acceptable to everyone, a compromise that will, in the words of Senator LEAHY, ''provide support for the Merida Initiative in a manner that addresses our shared interests and concerns.''

So rather than characterize these ongoing talks with our friends in Mexico, as some have in the United States, as ''rejecting Merida'' or ''abandoning Mexico'' or an ''infringement on sovereignty,'' I believe we have an obligation—both countries do—to share responsibilities with our executive branch, to tone down the rhetoric, to lower the temperature, and to work together to craft an effective broad-based

strategy that combats drug trafficking, takes on these cartels, and lets them know they are never going to prevail in the efforts they are using today to advance their narcotics trafficking.

It is important that the cartels understand this debate about the Merida Initiative in no way should be construed as a retreat from our common goals to see that the cartels are soundly defeated; that they are wiped out as cartels trying to do what they do every day.

Secondly, the audiences in our respective countries should understand that we will work cooperatively, that we will work together to advance this cause. I believe that is a sentiment that we all share in this Chamber, and that people across this country share too.

So working together, I think we will get Merida right. I am confident that, in the end, we will produce an agreement that will be acceptable to both the Mexicans and Americans so we can join together in building a safer, more productive future and successfully combat those engaged in the violence within Mexico and along our border area. That is our shared goal. That is the kind of lasting change I think we all want. And through this process, this is what I believe we can produce together.

I yield the floor for my colleague from Pennsylvania, who is here and ready to speak.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

U.S. AND IRAQ AGREEMENTS

Mr. CASEY. Madam President, I rise to discuss two agreements under negotiation between the United States and Iraq that have grabbed headlines in recent days as more and more Iraqi politicians announce their strong opposition to these agreements. The two agreements will shape the presence of American military forces in Iraq long beyond the tenure of the current administration. Unfortunately, the administration, in my judgment, is handling these negotiations in the same manner that has characterized its entire approach to Iraq since 2003. Its approach is this: unnecessary secrecy, a disdain for congressional input, and an arrogant insistence that its course of action—the administration's course of action—is the only reasonable option.

Let me talk about each of these agreements. The first agreement to which I am referring is a proposed Status of Forces Agreement, known by the acronym SOFA. The Status of Forces Agreement would define the authorities, privileges, and immunities of American troops on Iraqi soil and allow U.S. forces to remain in Iraq beyond December 31, when a U.N. Security Council mandate, authorizing the presence of coalition troops, is scheduled to expire. Administration officials insist the extension of the U.N. mandate, which has been repeatedly renewed on an annual basis, is no longer possible; the Iraqis seek to return to a normal status in the international system and no longer want to be the subject of a U.N. authorized military operation.

The second agreement involves a more ambiguous ''strategic framework,'' which would lay out the broad political, security, and economic ties between our two nations. While the administration walked back from previous statements indicating the United States is prepared to offer a binding security guarantee to Iraq's Government to come to its defense in the event of foreign aggression or internal turmoil, it is still prepared to agree to ''consult''—consult—with the Iraqi Government under such circumstances. While the promise to consult, in the event of aggression, has been extended by the United States to many nations around the world, and is known in diplomatic jargon as a ''security arrangement,'' it still raises concern when the United States maintains a large-scale troop presence in a nation. Any promise to consult with a foreign government takes on much greater weight when more than 100,000 troops are stationed there.

The Congress and the American public first learned of these two proposed agreements when President Bush and Prime Minister Maliki signed a ''Declaration of Principles'' last November, outlining their shared intention to conclude negotiations by July 31. A week later—a week after July 31—joined by five other Senators, I sent a letter to President Bush expressing deep concern over the proposed security guarantees to the Iraqi Government and the insistence of the administration that it could conclude both these agreements without—without—congressional input or approval. Since then, many Members of Congress, on both sides of the aisle, I might add, have expressed deep unease with the administration's approach. Some of the questions we have raised, including at a Senate Committee on Foreign Relations hearing in April, include the following: Here are a couple pertinent questions we should be asking and the administration should be answering.

First, why the sudden insistence on a termination of the U.N. Security Council mandate for the U.S. and other coalition troops in Iraq at the end of this year? Why not simply extend the mandate for another year and allow the next President to negotiate a bilateral accord with the Iraqis instead of a lameduck President?

Why would we accept a bilateral accord with the Iraqi Government that incorporates greater restrictions—greater restrictions—on U.S. troops, including limitations on the authority to conduct combat operations and detain prisoners of war than the current mandate? Why would we agree to that? I am a strong opponent of an open-ended U.S. combat presence in Iraq, but so long as American troops remain in Iraq, they should retain the discretion to conduct necessary operations to ensure their safety and security. American troops can never answer to a foreign government, especially one as dysfunctional as the Iraqi Government is now.

Why has the Iraqi Government committed to submitting these agreements to the approval of the Iraqi Parliament, acknowledging a national consensus in Iraq must exist to support their implementation. Yet the Bush administration stubbornly insists the Congress of the United States—the Congress—can have no formal role in approval, even refusing to share a draft text with key Members of the Congress.

Finally, why did the administration first characterize the Strategic Framework Agreement as a nonbinding ''declaration'' but has now changed its tune and has agreed, at the request of the Iraqis, to categorize it as an executive agreement that imposes binding obligations on both sides?

At a news conference yesterday during his overseas trip to Europe, President Bush responded to a question on the ongoing negotiations by asserting:

> There's all kind of noise in their system and our system. I think we'll get the agreement done.

Well, this isn't noise, Mr. President. What you are hearing is bipartisan unease over the course of United States-Iraq negotiations and puzzlement over the supposed urgency of concluding these accords instead of merely extending the U.N. mandate.

For the President of the United States to dismiss these concerns expressed by some of the leading foreign policy and national security voices in the Congress as mere ''noise'' is offensive and I think represents a fundamental misreading of our constitutional system of government.

As on other issues, I encourage the President to listen closely to his Secretary of Defense. In a television interview yesterday, Secretary Gates responded to a question over congressional input on this issue and on these agreements by acknowledging:

> If it emerges in a way that does make binding commitments that fit the treaty-making powers or treaty ratification powers of the Senate, then it will have to go in that direction.

Let me conclude with this. There is no urgency to concluding long-term agreements that define the future of U.S. military presence in Iraq. There is even less reason to conclude agreements that impose unhelpful restrictions on American military personnel and obligate the United States to an ambiguous commitment to Iraq's future security. I urge the President to acknowledge the importance and essential role the Congress has to play. If the President insists on completing these agreements during the last days of his administration, he should fully involve the relevant congressional committees in the ongoing negotiations and agree to submit any final accords for congressional approval.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. BARRASSO. Madam President, I rise today in strong support of the Preserving Access to Medicare Act. It was introduced by the ranking member of the Senate Finance Committee, Senator GRASSLEY, and I have cosponsored the act.

Having practiced medicine for almost 25 years, I can tell you that our Nation's health professionals and our hospitals face tremendous pressures. If these pressures are not addressed, it can and it will impede access to quality health care services. That is why we must act now to stop the upcoming Medicare physician reimbursement cuts.

But this is not just a physician issue, it is a Medicare access issue and a Medicare quality issue. If Congress does not act, many Wyoming physicians could be forced not only to stop seeing Medicare patients, some could decide to lay off staff, to restrict office hours, or may even leave rural America and move to the big cities.

We, the Senate, must put aside partisan differences and craft a reasonable bill that President Bush can and will sign into law before June 30. But we have to act quickly. Senator GRASSLEY has offered legislation that would allow us to do that. The Preserving Access to Medicare Act provides a ½-percent physician update for the remainder of 2008. It also makes sure doctors will receive a 1.1-percent update in 2009. These payment increases will preserve access to health care for millions of Medicare beneficiaries. But the Grassley bill accomplishes much more. It improves the quality of care and it gives doctors an incentive to report quality measures. Senator GRASSLEY's measure also retains the Physician Assistance and Quality Improvement fund. Congress created that fund specifically to help stop future cuts. The bill that has been defeated eliminates this fund.

The Grassley proposal promotes e-prescribing, it promotes electronic health records, and it returns ownership of oxygen equipment to the supplier, not the beneficiary. The bill curbs abusive Medicare Advantage marketing practices, but it does not make large across-the-board cuts to Medicare Advantage. Doing so would disproportionately affect patients in rural areas and it would alter policies designed to maximize patient choice. Most importantly, the Grassley bill protects access to quality health care for rural patients.

By now it should come as no surprise that rural health care issues are near and dear to my heart. I practiced medicine in Casper, WY, for almost 25 years, so I have some firsthand knowledge of the obstacles families face to obtain medical care in rural America. I also understand the challenges our hospitals and providers must overcome to deliver quality care to families in an environment with limited resources.

In my maiden speech on the floor of the Senate, I made a simple pledge to the people of Wyoming. I promised them I would fight every day, I would fight every day to strengthen our rural hospitals, our rural health clinics, and our community health centers; that I would fight every day to increase access to primary health care services, and I would fight to help successfully recruit and retain health care providers in rural and in frontier America.

Over the past year I have kept my word. Working with the bipartisan Senate Rural Health Caucus, I led and joined in several efforts to preserve and strengthen our Nation's rural health care delivery system. I believe the Federal Government must recognize the important differences between urban and rural health care providers and respond with appropriate policy.

Senator GRASSLEY's Preserving Access to Medicare Act includes a robust but responsible rural health package. Most importantly, the Senator from Iowa pays tribute to the late Senator Craig Thomas. The bill's rural equity title is called the Craig Thomas Rural Hospital and Provider Equity Act. As Members of this body know, Senator Thomas honorably served as cochair of the Senate Rural Health Caucus for over a decade. In that position he worked closely with his caucus colleagues to advance rural and frontier-specific health care legislation. Due in part to Craig's efforts, comprehensive rural health care bills have a long history of collaboration and cooperation on both sides of the aisle and at both ends of this building.

For example, when Congress enacted the Medicare Modernization Act of 2003, it included a broad health care package specifically tailored for rural communities, rural hospitals, and with rural providers in mind. This was the largest rural health care provider payment package ever considered by Congress.

The Medicare Modernization Act finally put rural providers on a level playing field with their neighbors in larger communities. With the passage of the act, Congress put into place commonsense Medicare payment provisions critical to maintaining access to quality health care in isolated and underserved areas. Rural and frontier America achieved a significant victory, and there was much to celebrate.

The mission, however, is not complete. Several of the act's rural health provisions have expired and many are set to expire soon. The Craig Thomas Rural Hospital and Provider Equity Act, which is a title included in S. 3118, reauthorizes expiring health care provisions included in the Medicare Modernization Act. It also takes additional steps, steps to address inequities in the Medicare payment system that continually place rural providers at a disadvantage.

First, the legislation recognizes that low-volume hospitals have considerably more volatility over time in the demand for in-patient services. This makes it very difficult for those hospitals to set budget and recruitment goals. Many small rural facilities are often backed into a financial corner. They are forced to convert to what are called critical access hospitals in order to make ends meet. This provision will help certain rural hospitals cover the higher cost per patient and stay within the prospective payment system.

Second, the bill reinstates the ''hold harmless'' payments to rural sole community hospitals. This is a temporary fix until analysts can find out why some rural hospitals do not perform as well under the Medicare Program. S. 3118 extends the geographic practice cost index work floor. As we all know, Medicare payments for physician services are based on a fee schedule. There are three components to the fee schedule: liability, practice, and work. Physician work is defined as the amount of time and skill and intensity necessary to provide the medical services. Prior to the Medicare Modernization Act, the physician work component was lower in rural communities than it was in big cities. Rural physicians put in as much or even more time and more skill and greater intensity into their work as doctors in the big cities. Rural physicians should not be paid less for their work. This is a simple fairness issue and it is addressed in the Grassley bill.

Additionally, the bill would allow independent laboratories to continue billing Medicare directly for certain physician pathology services.

Finally, S. 3118 would help rural areas maintain access to lifesaving emergency medical services. Senator GRASSLEY's bill makes sure that rural ambulance providers receive a 3-percent add-on payment. This extra payment is critical and it is critical because rural emergency medical service providers are primarily volunteers. They have difficulty recruiting, difficulty retaining, and difficulty putting the time and effort into educating the personnel. They also have less capital to buy and upgrade essential equipment.

The Grassley legislation clearly preserves the achievements gained in the Medicare Modernization Act. It also gives much needed relief to our rural hospitals and to our rural providers.

The time has come to move beyond this political wrangling. We need to send a bill to the President that the President will sign. Wyoming's seniors and disabled patients are counting on us to get it right. We must enact bipartisan legislation now that protects seniors, that pays doctors fairly, and that strengthens the rural health care delivery system.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

ENERGY

Mr. SANDERS. Madam President, a few months ago I asked my constituents in the State of Vermont, and it turns out people around the country, a

very simple question. We sent out an e-mail and said: Tell me, what does the decline of the middle class mean to you personally? Not in great esoteric terms, not in academic terms—What is going on in your life? Frankly, in my State we expected to receive a few dozen responses. We ended up receiving over 700 responses.

Then I asked people in Vermont and also around the country: Tell me what these high gas and oil prices mean to you. We received 1,100 e-mails that came in, 90 percent from Vermont but some from around the country.

I want to do two things this afternoon. I want to read, in the words of ordinary people, what these high gas and oil prices are meaning, in terms of how they impact their lives; and what the decline of the middle class means in the words of people who are in the midst of that decline.

For many years I have been very angry about the Bush administration talking about how strong the economy was, how robust the economy was. That is like the operation being a success except that the patient died. The economy has been so great except that the working people in the economy are seeing a decline in their standard of living. What we are seeing, generally speaking, in the economy is poverty increasing, the middle class shrinking, while the people on top have never had it so good since the 1920s.

Let me read some e-mails that came to my office within the last several months, mostly from Vermont but occasionally from other parts of the country. This is what we heard recently:

I am a single mother with a 9-year-old boy. We lived this past winter without any heat at all. Fortunately, someone gave me an old wood stove. I had to hook it up to an old unused chimney we had in the kitchen. I couldn't even afford a chimney liner—the price of liners went up with the price of fuel. To stay warm at night my son and I would pull off all the pillows from the couch and pile them on the kitchen floor. I would hang a blanket from the kitchen doorway and we would sleep right there on the floor.

State of Vermont, United States of America, 2008.

Another letter:

My 90-year-old father in Connecticut has recently become ill and asked me to visit him. I want to drop everything I am doing and go visit him, however I am finding it hard to save enough money to add to the extra gas I will need to get there. I am self-employed with my own commercial cleaning service and money is tight, not only with gas prices but with everything.

In other words, here is an instance where a 90-year-old father is ill and a son cannot even visit him because of the high price of gas.

Another story:

My husband and I are retired and 65. We would have liked to have worked longer but because of injuries caused at work and the closing of our factory to go to Canada, we chose to retire earlier. Now with oil prices the way they are we cannot afford to heat our home unless my husband cuts and splits wood—which is a real hardship as he has had his back fused and should not be working most of the day to keep up with the wood. Not only that, he has to get up two or three times each night to keep the fire going.

Another story:

I, too, have been struggling to overcome the increasing cost of gas, heating oil, food, taxes, et cetera. I have to say this is the toughest year financially that I have ever experienced in my 41 years on this Earth. I have what used to be considered a decent job. I work hard, pinch my pennies, but the pennies have all but dried up. I am thankful my employer understands that many of us cannot afford to drive to work 5 days a week. Instead, I work 3 15-hour days. I have taken odd jobs to try to make ends meet.

Another story:

I am 55 years old and worse off than my adult children. I have worked since age 16. I do not live from paycheck to paycheck, I live day to day. I can only afford to fill my gas tank on my payday. Thereafter, I put $5, $10, whatever I can. I cannot afford to pay for the food items that I would. I am riding around daily to and from work with a quarter of a tank of gas. This is very scary as I can see myself working until the day that I die.

Another story:

I am a working mother of two young children. I currently pay, on average, about $80 a week for gas so that I can go to work; $80 a week just to go to work. I see the effects of the gas increase at the grocery stores and at the department stores. On average I spend about $150 per week at the grocery store. And, trust me, when I say I do not buy prime rib, I buy just enough to get us through the week, and I cannot afford to make sure that we have seven wholesome meals to eat every night of the week. Some nights we eat cereal and toast for dinner because that is all that I have.

Another story. This is an interesting story because I am sure it applies all over the country:

As the chief of a small ambulance service, I have seen the impact of rising costs. As the service is made up of primarily volunteers, we have seen our numbers decline. When soliciting for volunteers in the community, we have been told that they are unable to put the time in due to the need to work more to pay their bills.

Our costs associated with running an ambulance

—this is a volunteer ambulance service—

have also risen in the last few years. When discussing with our supplier fuel prices, they play a large part in the increase both to the manufacturer and to transport.

Here is another story. This is just incredible. It reminds us of all of the ways that this increase in gas and oil is impacting our people and our communities. Here is this story:

My story involves my capacity as an oncology social worker working with cancer patients in an outpatient clinic. I also run an emergency fund through the Cancer Patient Support Program which provides funds to cancer patients in need during their cancer journey, including the initial diagnosis, surgery, and treatment period in which they experience a significant decrease in income during a medical leave.

This is an oncology worker at a hospital.

I cannot describe how devastating it has been for these folks who need to travel great distances to get to and from their cancer treatment and followup care with the way gas prices have been. Many of these folks need to travel on a daily basis to radiation therapy for several weeks, while others come from surrounding counties every 1 to 2 weeks for chemotherapy. The high price of gas has had a tremendous impact on our ability to provide the financial assistance to our emergency fund to all of those in need.

Imagine someone living in a rural area dealing with cancer, dealing with chemotherapy, dealing with radiation, sick as a dog, worried about the future, and then having to worry about how they can afford to get to the hospital to get the treatment they need.

Another letter:

First of all, I am a single mother of a 16-year-old daughter. I own a condominium. I have worked at the hospital for 16 years and make a very good salary, in the high $40,000 range. I own a 2005 Honda Civic. I filled up my gas tank yesterday, April 1. It cost me almost $43; that was $3.22 per gallon. That was on April 1. If prices stay at that level it will cost me $160 per month to fill up my gas tank. A year ago it cost me under $20 to fill up my tank.

On and on it goes. I think the message is that high gas and oil prices are having a devastating impact on tens of millions of Americans in every aspect of their lives and on our economy. As bad as it is all over this country, it is especially bad in rural areas where people have to travel long distances to work, and it is especially devastating in cold States where people have to spend a huge amount of money for home heating oil.

It seems to me it is absolutely imperative that we get our act together and that we do everything we can to lower the price of gas and oil. In that regard, let me talk a little bit about some of the events that have taken place on the floor of the Senate in the last couple of days.

I think it is interesting that many Americans have already given up on any belief that the Bush-Cheney administration even understands the problem, let alone is prepared to do anything about it. It is amazing that no one even looks to the White House for leadership on this issue, and for appropriate reasons; that is, because Bush-Cheney, from the day they have been in office, have been much more concerned about the profits of large multinational corporations, including the oil companies, than the needs of ordinary Americans.

There are a few points that I want to focus on at this time. First, it is a national obscenity that at a time when oil prices are off the wall, when people are paying over $4 for a gallon of gas, at exactly this same moment the major oil companies are enjoying record-breaking profits and are giving their CEOs outrageous compensation packages.

It seems to me that while there are multiple causes for why oil and gas are soaring, one of the reasons certainly has to do with the greed of these huge oil companies. And the time is long overdue for the Congress to say enough is enough and stop ripping off the American people.

During the last 2 years, ExxonMobil has made more profits than any company in the history of the world, making over $40 billion in profits last year alone—$40 billion, one company.

But it is not only ExxonMobil; Chevron, ConocoPhillips, Shell, and BP have also been making out like bandits. For example, in the first quarter of this year, BP announced a 63-percent increase in their profits—a 63-percent increase in their profits—and people are paying over $4 for a gallon of gas.

As a matter of fact, the five largest oil companies, the five largest companies in this country, have made over $600 billion since George W. Bush has been President; 7 years, $600 billion in profits.

Let me mention what these large oil companies have been doing with some of their profits. In the year 2005, Lee Raymond, who was then the CEO of ExxonMobil, received a retirement package of $398 million. Let me repeat that. Former CEO leaves his position, retirement package of $398 million.

Workers all over this country, as indicated in the letters that I have read, are finding it harder and harder to fill their gas tank and get to work.

In 2006, Ray Irani, who is the CEO of Occidental Petroleum—that is the largest oil producer in the State of Texas—received over $400 million in total compensation, one of the biggest single-year payouts in U.S. corporate history.

People here tell us, often my friends on the other side of the aisle say: Well, we have to trust the oil companies. They really are concerned about the American people.

I do not think so. I think one has to be very naive to believe companies in the midst of this energy crisis, when people are struggling with these very outrageously high prices, when these companies are giving hundreds of millions of dollars in compensation packages to their CEOs, and then they tell us that the oil companies are concerned about the American people. I do not think so. I really do not.

The situation is so absurd that there was an article the other day in the Wall Street Journal. Not only are these companies giving huge compensation packages to their CEOs, they now have a deal that if the CEO dies while he is CEO, their heirs and families will receive huge compensation packages.

According to the Wall Street Journal a couple of days ago, the family of Ray Irani, the CEO of Occidental Petroleum, will get over $115 million if he dies while he holds that job. The family of the CEO of Nabors Industries, another oil company, will receive $288 million.

Meanwhile, in the northeastern part of this country people are saying: How am I going to stay warm this winter? Prices of home heating oil are soaring.

We need a windfall profits tax on the oil industry. We need to tell them: Enough is enough. The windfall profits tax on the oil industry is not the only thing that we should be doing. We need to take a hard look at speculation that is taking place in the industry.

As you well know, as I think the American people increasingly know, there are estimates out there that as a result of the activities of major financial institutions, such as Goldman Sachs, Morgan Stanley, JP Morgan Chase, and others, there are estimates that between 25 and 50 percent of the cost of a barrel of oil today has to do with speculation in oil futures.

Earlier last week, George Soros told the Commerce Committee that rampant speculation in oil and gas futures is ''intellectually unsound and distinctly harmful in its economic consequences.''

We have had representatives in the oil industry themselves who have told us that speculation is one of the reasons oil prices are so high. Mark Copper with the Consumer Federation of America told the Commerce Committee last week that the speculative bubble in the price of oil has cost the U.S. economy over a half trillion dollars over the past 2 years and has cost U.S. families an average of a $1,500 increase in gasoline and natural gas costs.

So I think those are two areas at which we have to take a hard look. Now, in terms of speculation, people say: Well, this sounds like a conspiracy theory. Well, let's talk about some recent history. In 2000 and 2001, as the American people well know, especially the people on the west coast, Enron successfully manipulated the electricity markets and drove up prices by 300 percent.

Now, what was interesting is during the debate over this terrible tragedy on the west coast, what was Enron saying? They were saying: The reason that prices are going up is supply and demand. It is the natural forces of the market. Do not blame us.

That is what they said. I guess that is what some of the guys who are now in jail, after being convicted for massive fraud, told the public.

It was not supply and demand, it was excessive manipulation. But it was not only Enron in 2000 and 2001, in 2004, energy price manipulators moved to the propane gas markets. That year the Commodity Futures Trading Commission found that BP artificially increased propane prices by purchasing ''enormous quantities of propane and withholding the fuel to drive prices higher.'' That was the Commodities Future Trading Commission.

By the end of February of 2003, BP had almost 90 percent of all propane delivered on a pipeline that stretches from Texas to Pennsylvania and New York. BP's cornering of the propane market caused prices to increase by 40 percent during the month of February 2004. And as a result of their illegal actions, our friends at BP paid a $303 million fine.

So we have Enron, those guys are in jail, having caused severe economic damage on the west coast. We have BP, a major oil company, paying a $303 million fine.

But it goes on. In 2006, 2 years ago, energy manipulators moved to the natural gas market, when Federal regulators described that the Amaranth Hedge Fund was responsible for artificially driving up natural gas prices.

Amaranth cornered the natural gas market by controlling as much as 75 percent of all of the natural gas futures contracts in a single month. The skyrocketing cost of natural gas cost American consumers an estimated $9 billion. I should point out that the Amaranth hedge fund eventually collapsed, as a result of their illegal activity.

When people say, let us take a hard look at speculation, this is not conspiracy theory. This is based on some very real economic realities which have taken place in the last few years.

Today, the price of oil has more than doubled over the past 14 months. We need to find out who is manipulating oil and gas prices. Right now, oil and gas futures are largely traded on unregulated markets and enormous conflicts of interest exist between investment bank analysts, energy traders, and employees involved with oil and gas infrastructure.

The Commodity Futures Trading Commission has the authority and responsibility to prevent fraud, manipulation, and excessive speculation in U.S. commodity markets. Unfortunately, this authority and responsibility has largely been abdicated through the use of over-the-counter energy derivatives that are largely unregulated and by foreign boards of trade that have received no action letters from the CFTC to operate terminals inside the United States, trading U.S. commodities to U.S. investors free from regulatory oversight. It is pretty complicated stuff. But the bottom line is, huge amounts of money in oil futures are being traded in an unregulated, below-the-radar-screen market, and we don't know who is controlling what.

Congress needs to end what some have referred to as the ''Wild West'' of energy trading by requiring anyone operating a trading terminal in the U.S. trading U.S. commodities to U.S. investors to register with the CFTC and be subject to CFTC oversight. We also need to substantially increase margin requirements for these trades to make it harder for speculators to manipulate oil prices.

In addition, major conflicts of interest exist in the commodities markets. Goldman Sachs and other large financial institutions seem to have a corner on virtually every sector of this market. When Goldman Sachs and Morgan Stanley predict the price of oil will go up, so do their profits in the oil futures market. When ExxonMobil wants to sell or buy oil in the futures market, they go to Goldman Sachs or other large financial institutions. When Sovereign Wealth Funds, pension funds, or

smaller dealers want to invest in energy derivatives, Goldman Sachs and other investment banks facilitate those trades. Goldman Sachs, Morgan Stanley, BP and other major institutional investors even co-founded the InterContinental Exchange that now trades West Texas Intermediate crude oil to U.S. investors free of U.S. regulatory oversight.

And when Morgan Stanley and other investment banks need insider knowledge of the heating oil market to benefit their traders, they physically purchase large quantities of heating oil for storage and delivery. This is an issue that I am paying particular attention to. Heating oil prices right now are skyrocketing. Right now, fuel dealers in my State have told me that the residential price for heating oil would cost about $5 a gallon. If heating oil prices keep climbing there are a large number of my constituents who are in danger of freezing to death. We cannot let that happen.

I want to know why heating oil prices are high right now and if Morgan Stanley or others are manipulating these prices through excessive speculation. We have got to get heating oil prices to go down before winter.

We need to end these massive conflicts of interest in the energy markets. There are a number of ideas that I am exploring on this issue, but for starters, I strongly believe that the commodities market should have similar laws prohibiting insider trading that our securities market currently has.

Further, we must once and for all begin to break up OPEC. OPEC is an illegal price-fixing cartel that is clearly in violation of international trade rules. The high price of oil is expected to increase OPEC's crude oil export earnings by more than $300 billion this year to a record of over $1 trillion. That is an astronomical figure.

The time has come for the President to file a complaint with the World Trade Organization and demand the dismantling of OPEC. The ending of collusion with regard to oil production will result in increased production and lower oil prices.

Finally, and perhaps most importantly, over the long term we need a strong program to break our reliance on fossil fuels once and for all. That means transitioning electricity generation away from fossil fuel power and demanding automobiles that get substantially more miles per gallon. Plug-in hybrid prototypes currently get in the range of 150 miles per gallon. We need to get them out of the laboratory and onto the roads. We also have to invest heavily in mass transit, including rail and rural bus transportation. These steps can help break the power of the big energy companies, reduce damage to our environment, and create millions of good-paying, green-technology jobs across the country.

The bottom line is this: Congress and the President can no longer sit idly by while Americans are getting ripped off at the gas pump, and ExxonMobil, greedy speculators, and OPEC are allowed to make out like bandits pushing oil and gas prices higher and higher. The time for action is now. We need to lower gas prices.

That is something we must address, if the Congress is going to gain, perhaps once again—hopefully regain the confidence of the American people that we understand what is going on in their lives, we understand the absolute necessity of addressing this crisis of high gas and oil prices, that we understand the necessity of transforming our energy system away from foreign oil and our dependence on foreign oil, away from fossil fuels which is causing so many problems in terms of global warming, that we understand that the potential for moving toward energy efficiency, toward sustainable energy such as wind, solar, geothermal, biomass is sitting there right in front of us.

Yesterday there was a conference right here in Washington where people were talking about plug-in hybrids that get 150 miles per gallon. These are the kinds of developments we need. There has been a lot of discussion about a so-called Manhattan project. I believe in it. I think if we focus and are aggressive and are prepared to transform our energy system, take on the big, powerful special interests, we can not only create millions of good-paying jobs, we can reverse global warming. We can address environmental concerns. That is what we have to do.

The challenge we face is to understand that the oil industry and the coal industry have put hundreds of millions of dollars into lobbying, campaign contributions, advertising. They are very formidable folks. They want the status quo. We have been represented by the people, presumably not by the special interests. Our job is to represent ordinary people. I hope we can do that. If we do the right thing, I believe not only can we lower gas and oil prices today, we can transform our energy system and create a much better tomorrow for our kids and grandchildren.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Madam President, the high cost of gasoline has had a crippling effect on the economy of my State of Mississippi. The people in my State, where earnings are below the national average, are simply not able to keep up with the rising cost of living. High gasoline prices not only increase the cost of going to work, they also result in an increased cost of food and other consumables.

As a constituent who called my office yesterday said: I can stand the high price of gas, but my utility bills have stretched me to the breaking point.

The Daily Journal, a newspaper in northeast Mississippi, quoted another constituent, Jennifer Skinner, of Tupelo, as saying:

> Working class people can barely make it. I'm a single Mom with three kids.

We have been very fortunate that our farmers have been getting record prices for corn, soybeans, and wheat, other commodities as well, over the last 2 years. While the value of these commodities is high, energy costs have caused the inputs for farm operations to rise significantly. This has affected costs of fertilizer, pesticides, electricity, and the diesel fuel farmers use. As a result, some farmers who have worked so hard to produce food at a lower cost to the consumer than in any other country are not able to sustain their farming operations. These high prices and high costs have created a cycle of higher food costs that have been added to the burden of my constituents.

Crude oil prices are, of course, linked to supply and demand. While there are many other compounding factors, such as a weakened dollar, we must remember that at the root of the problem is the increased worldwide demand for energy. According to the Federal Highway Administration, Americans drove 12 billion fewer miles in the first quarter of this year compared with the same period last year. Americans are driving less due to increased costs. However, the decreased demand for energy in America has had little effect on the increased worldwide demand.

We know that demands for oil will continue to escalate as more developing countries use crude oil. According to the International Energy Agency, between now and 2030, China and India will account for 70 percent of all new demand for oil. The Congress and the administration must consider now how much future demands will increase in the coming years. While there are steps I believe the Congress can take to help cope with higher prices in the short term, our future demands for energy independence will require us to move to new sources of fuel. Americans are looking to their leaders for answers. They want to know what the Congress can do to help them through these hard times.

As we consider energy policies that will ease the burdens of higher costs for our constituents and their struggling businesses, we should not impose policies that create higher tax burdens or costs for energy companies. Higher taxes will not lead to lower prices but will only serve to increase the expenses of doing business that will be passed on to the consumers. Our economy relies heavily on transportation. A policy that doesn't provide real long-term reforms to the way our country acquires and uses energy will not provide Americans with a better deal or a stronger economy.

While we search for better energy sources, we must remember that until developing technologies are able to create affordable and efficient fuels, the short-term supply-and-demand problems will still exist. Some Senators have called for increased exploration and drilling. While I am always mindful of protecting our environment, I think we need to be reminded that advancements in drilling technology over the last several years mean we are much better able to protect our valuable natural resources as we explore for new energy.

In addition to acquiring more crude oil within the United States—and offshore drilling provides another opportunity—we should do all we can to promote the exploration and use of oil shale. I know the distinguished Senator from New Mexico talked about his views, which include the use of oil shale. It is already used extensively in many other countries.

According to the Congressional Research Service, there is a potential equivalent of 1.8 trillion barrels of oil to be found in America alone. It is my hope the Congress, the administration, and private industry will come together, work together with those who are concerned about environmental consequences and impacts, deal with those challenges in a thoughtful and effective way, and proceed with exploration and extraction of oil shale. The Energy Policy Act of 2005 identified oil shale as a very important resource that should be developed. While progress in the development of this important resource has occurred, we should do more to make oil shale resources as a motor fuel into a reality.

Peter J. Robinson, vice chairman of Chevron Corporation, recently testified before the House Select Committee on Energy Independence and Global Warming. He said:

> The search for the next source of energy—whether it be oil or next-generation fuels from renewable sources—takes enormous capital, specialized expertise and the organizational capability that characterizes Chevron. Transforming raw materials into usable energy products and delivering them to market some six continents takes substantial financial strength, advanced technology, and human energy.

I think Mr. Robinson is correct when he says we face a huge undertaking in determining the next source of fuel. I also believe the Congress should not be in the business of trying to pick a winner for the next form of energy. Rather, we should be doing what we can to promote all forms of alternative energies that show promise through appropriated research dollars, grants, and public/private partnerships.

In Mississippi, we are prepared to play a major role in the development of new energy. Our farmers have the knowledge and expertise to create renewable feedstocks such as corn, soybeans, timber, grasses, animal fats, and even wastewater. The University of Southern Mississippi, for example, is engaged in research to create more efficient and lower cost fuel cell membranes. The University of Mississippi is using termite research in an innovative approach to cellulosic energy research.

In addition to researching alternative fuels that include waste water, timber, and other feedstocks, Mississippi State University students were winners of the 2008 Challenge X Competition. This competition is a partnership between the Department of Energy and General Motors. It challenges university students to create vehicles that are more fuel efficient and produce lower emissions.

I am proud of my State's commitment and contribution to creating a better energy future, and I hope we can continue to work hard to make the ideas and efforts of these students and university researchers and our entire population in our State who are involved in this challenge a reality.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Florida). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. The Senator is recognized with unanimous consent.

HABEAS CORPUS

Mrs. FEINSTEIN. I thank the Chair.

This morning, the Supreme Court struck down as unconstitutional the portion of the Military Commissions Act of 2006 which denied habeas corpus rights to detainees at Guantanamo Bay. In making its decision, the Supreme Court has recognized that detainees at Guantanamo cannot be denied the fundamental legal right to habeas corpus, enshrined in the Constitution.

Writing for the majority, Justice Kennedy wrote:

> The laws and the Constitution are designed to survive, and to remain in force, in extraordinary times. Liberty and security can be reconciled; and in our system they are reconciled within the framework of the law.

I think that is a very important statement. I think it crystallizes a lot of the debates this Senate has been having over the past 5 to 6 years. It recognizes the importance of the rule of law, one of the most fundamental values our country was founded upon.

Detainees at Guantanamo have been in a legal quagmire since 2002. As the Court recognized, some have been held without court review for more than 6 years—6 years—many in isolation for long periods of time. The Court specifically stated it was not ruling on the issue of whether the writ for habeas corpus should be issued or whether detainees should be released. Rather, the decision focused on the fact that the detainees are entitled to the fundamental right of habeas corpus as a means to review whether they are being properly held.

Four times now the Supreme Court has stepped in and struck down the Bush administration's policies at Guantanamo. Four times. In the Hamdi and Rasul decisions, the Court stated that U.S. law applied to Guantanamo and that detainees had to be determined enemy combatants before they could be held.

In the Hamdan decision, the Court struck down the administration's claim that the Geneva Conventions did not apply to the detainees at Guantanamo and repudiated the legal framework the Bush administration tried to construct to handle the trials of detainees.

In today's decision, the Supreme Court has once and for all made it clear that even at Guantanamo our constitutional principles remain sound. It also recognizes that President Bush's repeated assertion that he has essentially unchecked powers in the war on terror is simply wrong.

Guantanamo Bay has been a case study in what not to do in the war on terror. Consider all the early choices this administration has made: to deny the protections of the Geneva Conventions, to establish military tribunals based on the theory of unchecked Presidential power, to deny habeas corpus and, finally, to reverse decades of old precedent and authorize the use of coercive interrogation and torture.

These decisions by the Bush administration and its operation of Guantanamo will go down in history as a black mark on the United States, decisions where this administration and this President simply forgot—or worse ignored—our own values and laws.

Today's decision provides another reason why Guantanamo should be closed. Closing this facility is critical to our Nation's credibility and stature and our ability to conduct foreign policy and counterterrorism operations worldwide. If there is one thing that is very clear, the credibility of the United States as a bastion of law, of constitutional rights, and of human rights has gone downhill all over the world. As I have said on this floor before, I have never seen a time in my lifetime where Americans are thought so poorly of by citizens of countries that are our firm allies as well as our adversaries.

Let me be clear: I have no sympathy for al-Qaida terrorists, Taliban fighters or anyone else around the world who wishes to harm Americans at home or abroad. But I strongly believe that continuing to operate Guantanamo, in the face of repeated reprimands from the Supreme Court, the stated wishes of senior administration officials, and a tidal wave of congressional and international condemnation, weakens the United States in its effort to fight the war on terror.

Last July, I submitted an amendment to the fiscal year 2008 Defense authorization bill to close Guantanamo. I was joined in that amendment by 15 cosponsors: Senators HARKIN, HAGEL, DODD, CLINTON, BROWN, BINGAMAN, KENNEDY, WHITEHOUSE, OBAMA, SALAZAR, DURBIN, BYRD, BIDEN, BOXER, and FEINGOLD. I intend to offer this amendment again this year.

President Bush, Secretary Gates, Secretary Rice, Colin Powell, 9/11 Commission heads Tom Kean and Lee Hamilton, numerous retired four-star generals and admirals, as well as Senator OBAMA and Senator MCCAIN, have all expressed their support for closing Guantanamo.

It kind of boggles my mind. I was sitting in the Defense Appropriations Subcommittee, when I asked the question of Secretary Gates, and he said: Yes, I am for closing Guantanamo. I have heard Colin Powell say: Yes, I am for closing Guantanamo. I would do it right now. I have heard generals and admirals say: Guantanamo does this Nation no good. Yet nothing changes. So the question of closing the facility is when and not if.

Guantanamo, as I have said, is a lightning rod of condemnation around the world, and not just because of a lack of adequate legal rights and remedies. It has also drawn criticism for the treatment of detainees that violates both American and international standards, laws and values. And coercive interrogation techniques undertaken there have failed to yield reliable and usable intelligence.

Both the Presiding Officer and I sit on the Senate Intelligence Committee. We hear the classified data which obviously cannot be discussed here. We know there are bad people in Guantanamo, but we also know there are people who are hapless victims, who may have been picked up just because they were in a certain place at a certain time.

This week I held a hearing on coercive interrogation techniques being used at Guantanamo. Glenn Fine, the inspector general of the Department of Justice, testified about his report that concluded that over 200 FBI agents observed or heard about military interrogators using a variety of harsh interrogation techniques, including but not limited to stress positions and short shackling, in which a detainee's hands are shackled close to his feet to prevent him from standing or sitting; isolation, sometimes for periods of 30 days or more; use of growling military dogs; twisting a detainee's thumbs back; using a female interrogator to touch or provoke a detainee in a sexual manner. Mr. Fine also argued these techniques are not only shocking but they are less effective and they produce less reliable intelligence than noncoercive means.

Experienced FBI interrogators agree. We heard yesterday afternoon—and it was kind of interesting because the minority apparently exercised a rule that would prevent the hearing from continuing. When I asked the question, why, I found it was because of my hearing, which was to elucidate some, I think, valuable facts and timelines of how all this happened. Fortunately, and thanks to the majority leader who came to the floor and recessed the Senate, we were able to conclude our hearing.

One of the people testifying was a former FBI agent by the name of Jack Cloonan. Now, Jack Cloonan has interrogated at least six members of al-Qaida. He testified under oath that he was able to get convictions for three of them and was able to get actionable intelligence for every one of them using noncoercive techniques. As a matter of fact, he said these al-Qaida members were so struck by the process he used, the fairness of the process, they not only gave him information that was valuable, they are now in witness protection programs. I thought that is very relevant information. Why do this if it isn't effective?

The conditions at Guantanamo have led to at least 4 documented detainee suicides and another 41 attempted suicides, according to media reports from 2006 and 2007. More recent press accounts discuss how detainees have gone mad during extensive periods of isolation, sleep deprivation, and degrading treatment.

Finally, I ask unanimous consent to have printed in the RECORD following my statement an article from the New York Times, dated April 26, 2008, entitled, ''Detainees' Mental Health is Latest Legal Battle.''

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mrs. FEINSTEIN. Mr. President, the article describes how Salim Hamdan ''has essentially been driven crazy by solitary confinement in an 8-foot-by-12-foot cell, where he spent 22 hours a day, goes to the bathroom, and eats all his meals.''

This is not about abuses from 2002 and 2003, like al-Qahtani and the Abu Ghraib scandal. This is 2008, and I fear it is going to continue as long as Guantanamo is able to operate in its isolated setting, in a highly confined environment, with no visitors and nobody able to go in and talk with inmates.

Let me say a little about the status of Guantanamo today. There are approximately 260 detainees being held. They can be divided into roughly three equal groups: those the administration intends on charging with a crime and prosecuting; those the administration says can be transferred to another country, if another country is willing to take custody—and I will admit there are problems there. There are detainees, I know, who are awaiting repatriation to their own country, if they will take them back. In many cases, they will not take them, and that is a problem. We, on the Intelligence Committee, need to pay attention to this and find a solution to it.

Third are those who can't be tried for a crime but who are deemed too dangerous to transfer and who, presumably, will be held indefinitely without charge.

I think we need to provide a legal framework for that kind of administrative detention so that the detainees in administrative detention have certain due process rights to ensure they can know why they are there, that they can have an opportunity to rebut the charges, and that they can have access to counsel.

Since the end of 2001, nearly 500 detainees have been transferred back to the custody of their home nations. A group of seven Chinese Uighers, who had committed no crime, were sent to Albania, where they are now held as refugees in poor conditions.

Exactly one man, in the 6 years Guantanamo has existed as a detention facility, has been convicted of a crime. He, of course, is David Hicks, a kangaroo skinner from Australia, who pled guilty in order to get out of Guantanamo. He has since been released by the Australian Government.

I believe there are 19 more detainees against whom charges have been brought. The military commissions process is in turmoil. It is my hope that with today's ruling these cases will be moved to the district and circuit courts rather than the deeply flawed and separate system of justice set up in the Military Commissions Act, which I voted against, and I am very pleased I did so.

Guantanamo began in the Bush administration, and it should end in the Bush administration. At every turn, the Supreme Court has struck down President Bush's policies with respect to Guantanamo.

John Adams said that ''we are a Nation of laws, not men.'' This administration has turned that concept on its head, with President Bush deciding that he alone should make the legal and policy decisions in the fight against terrorism, and that the rule of law does not apply.

In rejecting this notion, the Supreme Court's decision today once again reiterated that it would be wrong ''to hold that the political branches may switch the Constitution on or off at will.'' I hope the administration hears that. To me, this clearly indicates that the President's article 2 powers are limited, that his powers as Commander in Chief are limited, and that his powers under the war resolution and the authorization for use of military force in Afghanistan are limited, and he must follow the Constitution of the United States. That is what this decision says to me.

So I commend the Court for its decision. I hope the President will recognize this. I suggest that he should. I suggest that after being repeatedly rebuffed by the Supreme Court, the administration come to us and say that the time has come to close Guantanamo. I would expect, now that we have both potential presidential nominees supporting closure of Guantanamo, we will close it. The Secretary

of Defense, the former Secretary of State, the present Secretary of State, the co-chairs of the 9/11 Commission, Governor Kean and Representative Hamilton, and dozens of admirals and generals, recommend the closure of Guantanamo.

When I present this amendment on the Defense authorization bill, I hope I will be able to press this toward a successful vote.

SIGNING AUTHORIZATION

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Senator from Montana, Mr. TESTER, be authorized to sign the enrollment of H.R. 6124.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Utah is recognized.

HABEAS CORPUS

Mr. HATCH. Mr. President, I appreciate the remarks of the distinguished Senator, my friend from California. She is an excellent Senator and a very good person. She certainly tries to bring both sides of the aisle together. Over the years we have had a number of disagreements, but that is part of the legislative process. However, that has never diminished the respect that I have for her.

Yet the fact is, I disagree with her regarding the Supreme Court's decision. This decision, written by Justice Kennedy, gives terrorists one of the most important rights enjoyed by the people of the United States.

We face difficult times ahead. Many have legitimate concerns about the prospect of closing Guantanamo Bay and then housing these alleged terrorists somewhere within the continental United States.

These are not easy questions. However, I do not believe that the Supreme Court has provided the correct answer.

Our government has publicly stated that there have been three instances in which waterboarding has been used. In one of those instances, it was used against a leading terrorist who actually masterminded the terrible incidents that occurred on 9/11.

These are interesting and difficult issues. I certainly appreciate the anguish and the feelings of those who believe, as the distinguished Senator from California does, that we should provide these alleged terrorists every right that the American people have, in spite of the fact that these terrorists do not represent a country, do not wear a uniform, are willing to kill innocent human beings, and are willing to have their own children blow themselves up. We have never before faced these types of events in our society. Yet it is important that we not ignore them. We are dealing with people who do not abide by the norms of the world.

Some concerned people ask, why should the terrorists have the rights that everybody else has? Are we not binding future Presidents who may face even greater terrorist threats? Will the next President be able to get the information we need to protect the American people? We know there are terrorists who would, if they could, not bat an eyelash as they used a nuclear weapon against the innocent.

Sometimes we have to take stern measures to deal with these types of people. It is always nice to be concerned about people's feelings and about people's rights, even those of terrorists, but sometimes we have to be practical and pragmatic and do the things that have to be done to protect the American people, and our citizens overseas.

These are tough issues. We should all work together to try to resolve them. There are many who will believe that the Supreme Court made the right decision and others, such as myself, who believe that the Court made a lousy decision.

However, I uphold the Supreme Court, even though it was a 5-to-4 decision. Nevertheless, it is a decision by one-third of the separated powers of this country, and must be recognized as such.

Having said all that, I admire my friend from California. She knows it. We have worked together on a whole raft of issues through the years. I appreciate her sincere leadership in the Senate and will always appreciate knowing her and having the experience of calling her my friend.

ENERGY

Mr. President, I want to take a few minutes to address arguments by my friends on the other side of the aisle related to energy production. Some Democrats are complaining that oil companies own tens of millions of acres of oil and gas leases on Federal lands that they are just sitting on.

Now, that is an interesting way of formulating an argument because some are obviously trying to paint a picture of oil companies holding back production purposely to raise gas prices. Some Democrats have argued that the oil companies are purposefully holding back production to raise gas prices, and others are arguing that this fact makes it totally fine to close off all our good offshore oil and natural gas and all our oil shale and tar sands because there are undeveloped leases on public lands right now. Here we go again with the anti-oil agenda of the more extreme environmentalists, which the Democratic leadership has adopted as their own energy policy—or should I say anti-energy policy, which is what I believe it to be.

Take oil shale alone. We have an estimated 3 trillion barrels of oil in the tri-state area of Colorado, Wyoming, and my home State of Utah. There is anywhere from 800 billion at the low end to 1.6 trillion barrels that are recoverable, and recoverable at a much lower price than the $135 we are paying for oil, but we're being told we can't develop it.

It is true that there are tens of millions of acres of leases held by oil companies. But it is also true that they are being developed as fast as possible. Guess what. You cannot develop a lease on Federal land unless you have a permit to drill, and there is a very large backlog in the permitting process on Federal lands. It is the job of the Bureau of Land Management to issue these permits, and I don't blame them for the backlog because they are working as hard and as fast as they can. All of the environmental work has to be done before one of these permits can be given. Our Nation happens to have very stringent environmental laws on oil and gas drilling.

In the Energy Policy Act of 2005, I supported an effort pushed by the senior Senator from New Mexico, who has been one of the most prescient forces in our Senate on energy and who was chairman of the Senate Energy Committee at the time, to put more funds toward the permitting process, and that has helped to a certain degree.

What proof do we have that our oil companies are trying their hardest to develop their leases? Let's look at the numbers. In the year 2000, the BLM gave out 3,413 permits for oil drilling. In 2007, just this last year, the BLM gave out 7,124 permits for oil drilling. In the year 2000, oil companies drilled 2,341 new oil wells. In 2007, again just this last year, they drilled 4,640 new wells. In other words, in the last 7 years, oil companies have more than doubled their effort to develop their leases on Federal lands. I am not sure how an industry that is literally doubling its efforts to supply our energy needs can be painted as ''sitting on their leases.'' I don't blame the liberals in Congress for not understanding this because it seems as if they get almost everything they know about energy from the most extreme environmentalists in our society who have no problem with seeing our people suffer as long as their anti-oil agenda moves forward. That is the best you can call it, an anti-oil agenda.

In Utah, we have leases, and we have a lawsuit every time somebody tries to develop anything. It is ironic because the extreme environmentalists know perfectly well that oil companies are drilling as fast as they can on these leases. How can they be so sure, one may ask. I know for sure because I have watched these groups do everything in their power through protests, lawsuits, and policy changes to slow the oil companies down. The oil companies could do a much greater job if they did not have all of these lawsuits, slowdowns.

The Federal Government spends a large portion of its public land management budget fighting these lawsuits. I have heard estimates that during certain periods, up to 50 percent of the Bureau of Land Management budget has gone to litigation costs. That is pathetic. Can you imagine what could be done for our habitat, our forest lands, BLM lands, and so many other things if we didn't have all of that money being spent on lawsuits?

It is ridiculous for these radical groups to do everything in their power to stop energy production on our public lands and then sell an argument to liberal Members of Congress that oil companies are not trying hard enough to drill on their own leases. They would drill a lot more if they had the leases and no lawsuits in areas where they actually have leases.

I have said it before and I will say it again: Our country simply cannot afford to promote an anti-oil agenda. It is an agenda that will cause the most harm to our poorest citizens. The poorest among us spend 50 percent of their income on energy prices mainly to get to work or to buy groceries. I hope my well-intentioned but sometimes misguided friends in Congress keep that in mind.

We have it within our power to alleviate a lot of pressure on the price of oil. If we just announced tomorrow that we are going to go forward and do more oil and gas exploration offshore and developing our oil shale in that tri-state area, the price of oil could drop simply from the announcement. The problem is that Saudi Arabia and the other countries do not have the ability to flood the world with oil and to bring the prices down anymore. There is such an insatiable demand for the current oil that is being developed.

I heard familiar arguments against oil shale during the Clinton administration in 1995: It will take 10 years to develop oil shale, they said. Here we are 13 years later, and now they are saying: It will take 10 years to develop oil shale. What if we had started to do it then in a realistic fashion and we were able to get that 100,000 to 1 million barrels of oil out of each acre of oil shale in the productive areas of Colorado, Utah, and Wyoming—keep in mind, abiding by very stringent environmental concerns? It is mind-boggling to me.

Yesterday, I was on a radio show in my State, one of the most popular radio shows. The announcer said: Why aren't you for the Democratic Energy bill? I briefly said: Well, it is not an energy bill, it is a regulatory bill that will stifle energy development.

Back in the last years of the Carter administration, they put on a windfall profits tax that cost us 129 million barrels of oil and sent this country into a downward spiral. If you tax something, you get less of it. That is just a simple fact of life. But that is what my colleagues are doing in their ''energy'' bill.

I am the author, along with some other wonderful colleagues on both sides of the aisle, of the CLEAR Act. It took us 5 years to get the CLEAR Act through, if I recall it correctly, something that should be a no-brainer for anybody.

We now have the Freedom Act, which will give economic incentives for the development of plug-in hybrids and other kinds of battery-operated electric cars. I just saw one today that is all electric, it goes more than 200 miles on a charge and goes from zero to sixty in less than 4 seconds. The problem is it costs around $100,000 to buy. But future models will be cheaper, and plug-in hybrids will be affordable for average citizens.

But today, and tomorrow, and for quite a while, we're going to need oil. I cannot believe we in this body cannot acknowledge that for many years from now, we are going to have to use our oil, our coal, our natural gas, and we are not going to be well off if we do not.

I am proud to tell you that I believe we have some 22 natural gas-providing gas stations in Utah for natural gas-driven vehicles. We could do that all over the country. We have 22 of them, and those people are driving their vehicles—mainly Honda Civics—at a rate of 68 cents per equivalent gallon of gas. If we would move into these types of situations—yes, it would take us years to get there, and it takes oil to fill up those intervening years—if we would move that way and acknowledge that this is what we have to do, within 10 to 15 to 20 years, we would become very energy independent.

If we would develop our offshore oil instead of letting China and Cuba and other countries come offshore and take our oil because we will not allow it to be done—let the States have control over it. The distinguished Presiding Officer comes from Florida. If Florida does not want energy development offshore, that is Florida's concern, as far as I am concerned. But we stop it here. There are a number of other places, such as Virginia, that would love to be able to do this and would help alleviate the dependency we have right now in our country.

I wish we could get around these extremists who seem to control the liberal agenda. I wish we would work together to provide a means whereby we can overcome these problems together and keep our country strong.

We are sending upwards of $700 billion every year to other countries for foreign oil, much of which comes from countries that are not all that friendly to us, and it is ridiculous. It is time that we wake up and do something about it.

Mr. President, I thank my colleagues. I am sorry to have gone on. I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, certainly no apology is necessary from my colleague. He comes to the floor very passionately and has worked with great passion, and we appreciate that.

MEDICARE

Mr. President, I come to the floor today to echo so many comments that were made by many of my colleagues on the great policies in the Medicare bill that has been introduced by the Finance Committee chairman, Senator MAX BAUCUS.

I have, along with others, been exhausted, certainly disappointed and dismayed that so many in this body voted against moving forward on this bill today, a bill that I believe is essential to the needs and concerns of so many of the constituency I represent in our great State of Arkansas.

When I first came to the Senate, people said: It is always easy to vote no. But to move things forward, to be progressive, to be willing to start and engage the debate and to move forward in starting to solve the problem, that means voting yes. And sometimes it is a difficult vote, to move forward and to get things going, to come together, to work together and to find the solutions that are necessary for this country.

But as we have seen time and time again in these votes, it is a simple vote that happens on the other side. It is ''no.'' No, we are not going to create jobs and move forward in this tax extenders bill, providing tax cuts to industries for research and development and help in the creation of new jobs in the renewable fuels industry. No, we are not going to move forward in trying to fix the concerns our constituents have in their access to health care, particularly in the Medicare Program. ''No'' is that simple vote. The tough vote is yes; being able to say yes, it is worth it to the people of this country for us to come to the floor, to work together, and to be able to move forward in the debate. Not that any of us are going to get everything we want, but it is important that we are willing to come together and work on behalf of the people of this country.

Now, I am not sure how many of my Senate colleagues here pump their own gas, but I do. I drive myself, unlike many of my colleagues, and I pump my own gas. I guess it was a couple of days ago, in between a Little League game and purchasing some items for the end-of-school party, that I stopped to buy my gas, and I was astonished, just as I had been the time before. My son commented on the fact that it had gone up so much since the last time we filled up, and I am thinking to myself here I am, with both my husband and me working and bringing home a paycheck, and realizing the crunch we feel. Think of how other hard-working Americans feel across this country.

I know the Presiding Officer has many of the same duties I do, whether it is Little League or school parties or birthday events or all kinds of things, but I think it is so important for our colleagues to stop and think. Because if they do not fill up that tank, if they are not going to the grocery store, as I am, and seeing the rising cost of food, then they need to start. They need to understand what Americans out in our States, the hard-working families of this country, who are the fabric of our Nation, are faced with, the decisions they must make.

Certainly on job creation, on moving forward with the tax cuts, we could have provided those to industries and businesses, extending some where people don't know whether they are going

to be there, and certainly providing them the wherewithal, the businesses and industries of this country, to be progressive in addressing and creating the kinds of jobs we need out there in these new and innovative technologies and new and innovative industries.

Here today, we had an opportunity to move forward on improving the Medicare system, the health care available to seniors and others, and we missed it. We missed that opportunity. We are not here to create a work of art. I say this all the time. We are here to create a work in progress. Several years ago, we passed the Medicare Modernization Act. Here we had an opportunity to improve upon and to move forward in making sure that some of these policies in Medicare can continue to happen.

S. 3101, the bill we tried to move forward today, contains a number of provisions that would improve care and access to care for low-income Medicare beneficiaries, and a number of important provisions to support our providers in the Medicare Program. Low-income Medicare beneficiaries, the people more than likely who are on a fixed income, get hit the hardest by increased gasoline prices and increased food prices because they are on a fixed income. So here was an opportunity to say yes, we understand the pain you are feeling, we are working on it. We know there is not a ton of immediate impact that we can make on the price of fuel, but we can do some things, and here is something we can do. We chose not to, because there weren't enough votes to move forward.

Besides fixing the reimbursement for physicians, it bolsters Medicare in rural areas and includes a number of provisions from the Craig Thomas Rural Health Care bill, in honor of our former colleague, Senator Craig Thomas. That is a bill I and so many of my colleagues in the Senate have supported year after year. These are not new things. These are things that are essential.

If you look in rural America today—and I was visited in my office by elected officials from a county that is predominantly Federal lands. They won't be able to meet their county budget this year. They are operating a jail that is over 100 years old and on the National Historic Register, but it doesn't do the job they need it to do.

People who live in rural America, hard-working Americans, those who have worked hard to make this country great, need us to be paying attention. Yet what are we doing? We are not moving forward. We are continually stymied from even getting to the debate on the issues and offering amendments and moving forward on these matters because people want to say no. It doesn't work. We have to come away from that.

The bill we tried to bring up earlier today, S. 3101, would continue to allow exception to when seniors need medical therapy beyond current funding caps. I have seniors who will not get their therapy until August because they are worried they are going to fall and they will need their therapy more desperately in the last several months of the year. If they use it in the first part of the year, they will hit the cap. So what does that do? They do not get the therapy, because they do not want to reach their caps early in the year, so they are not as ambulatory, they are more fragile, and then what happens? Yes, what they anticipate does happen. They do have a fall in August and then they have to go through even more extensive rehabilitation. It is not cost effective and it doesn't make sense. These are such smart things we could do on behalf of Americans who need our help and our rationalization in moving forward.

The bill also extends a provision to pay pathologists for the valuable, technical component of their services. I didn't understand this one, so I took a tour of a pathology lab. I was taken through the different processes of what happens in that pathology lab and I saw what that technical component was. There were several steps in that pathology instrument, or that pathology series of events that didn't catch the eye of the physician—the trained pathologist, because they wouldn't get reimbursed. He looked at me and said: Would you want that to be the sample of your cancer tissue, or the possibility that it is not going to be caught because we are going to leave out three different processes or three different pieces in this process? No. We want to be thorough, and there is no reason why we shouldn't be.

The bill also gives Medicare beneficiaries access to cardiac and pulmonary rehabilitation, which has already shown us to lower costs associated with COPD and other respiratory diseases. These are diseases that oftentimes are predominantly in older people, low-income older people who live in rural areas who are least likely to be able to get the help elsewhere. Why would we not want to save those dollars and create a greater quality of life for these individuals? That is an investment.

The bill also educates kidney disease patients with managing their disease, before they end up on costly dialysis, which can drastically improve their quality of life and greatly reduce medical costs down the road. Again, we are talking about procedures and making sure those procedures are reimbursed that are cost effective. That is how we improve on Medicare.

We are getting ready to see an explosion of baby boomers who are going to be using the Medicare system. Why would we not want to act now to put in cost-saving measures that will create greater savings and greater quality of life?

It also extends for 2 years the critical diabetes research conducted in the CDC and the NIH. I tell my colleagues if they have not met with the families in their State who suffer from diabetes, they should do so. I have never in my life sat with more passionate people, particularly those families who suffer with a child who has juvenile diabetes, who are passionate about the idea of not only how do we find better ways to care for our children but also investing in the research that will one day find the cure.

I looked at a mother who had tears in her eyes and she said: My daughter, who is 12 years old, is going to her first sleepover, and I am going with her because I cannot leave her side. She needs to be so closely monitored, she said. But I refuse—I refuse—not to let my child have a childhood.

These are the things we can change, and we should.

Now, unlike the Republican alternative that was introduced by Senator GRASSLEY, the Baucus bill also ensures that pharmacists receive prompt pay in Medicare. As I mentioned before, I don't work under the auspices that we are here to create a work of art, and when I supported the Medicare Modernization Act, I knew it wasn't perfect, and I knew we would have to watch to see what worked and what didn't work. I went a step further. I went to my State and I traveled county to county and had meetings with seniors, with the AARP, with our area agency on aging, and with Sunday school teachers to try and work through what we needed to know and what they needed to know to help one another about the prescription Part D in Medicare, and we had good results. Arkansas was one of the top States in terms of signing up seniors and getting them into the right plans, figuring out how we could help them, and working through making that a success.

But the fact is that in rural America, oftentimes pharmacists are the last touch for a medical provider. If you are in a community that has a commuting physician, perhaps, or maybe you don't have a hospital and have to use one in a larger MSA somewhere, your pharmacist is probably the only person who is going to be there on the weekend, and it is critical that we keep them in business. Well, if they do not get paid on a timely basis—I had two, three pharmacists, at least, who had to take out loans of $500,000 to be able to carry over the burden of providing the prescription drugs for seniors on Medicare when we transitioned into the Medicare Part D. That is unreasonable to ask of any small business such as that, to have to carry that over.

The bill we tried to move forward today also delays the harmful Medicaid average manufacturers price rule so that we can improve it to reflect the true cost that pharmacists face and to increase patient access to generic drugs; again, a commonsense way to move us into a more practical, more cost-effective delivery of Medicare services—generic drugs. We all talk about them frequently. Here is something that would actually implement

moving in that direction, not to mention the true cost these smalltown pharmacists face.

Many of them can't work within cooperatives. They don't have the advantages, lots of times, of the large pharmacies out there, where they can buy in these huge bulk purchases and get greater prices. We need to make sure we are supporting everybody, and those pharmacists in rural America definitely have their needs. That was something in our bill that the Republicans did not address.

S. 3101 makes several much needed reforms to the Medicare Advantage Program, or the Medicare Part C. This is something new we added. When Congress first decided to allow private insurers to participate in the Medicare Program, the health insurance industry maintained that the efficiency and the competitiveness of the private marketplace would enable them to provide Medicare beneficiaries with better coverage at less cost to the Government.

Despite congressional intent, these plans do not save the Government money. As a matter of fact, they cost the Government money. Many of them offer absolutely no data to suggest they provide significant extra benefits or any better quality at all.

Since passage of the Medicare Modernization Act in 2003, more and more private health insurers have entered the private Medicare market and enrollment in Medicare Advantage plans has increased exponentially across the country. I heard someone make the comment the other day that they were multiplying like rabbits, particularly in rural America. The high enrollment growth, especially for Medicare Advantage plan types known as private fee for service, is alarming to me since these private plans are paid 20 percent more by the Government, on average, than it would cost traditional Medicare to cover those same beneficiaries. So if they are multiplying like rabbits out there and we are paying them 20 percent more than what we would pay for traditional Medicare fee for service, we are wasting taxpayers' dollars.

Private fee-for-service plans are not required to create networks with providers or to report any quality measures. So in terms of tracking whether they are providing greater quality, we have had studies done, but we cannot even track the measures to determine whether there is an improved quality.

Many seniors in my State of Arkansas have run into trouble with private fee-for-service plans. Many of them have been duped into signing up for these plans through misleading or even fraudulent marketing practices. Once they do sign up, they often find that when they try to go to their regular doctor, their provider does not accept the plan. People have signed them up for something simply to get a bonus for the number of people they can sign up for a plan.

We had one woman who came into our office. We heard about this case in Arkansas of a sales agent going door to door, wearing medical scrubs and a stethoscope, trying to enroll seniors in this plan, not knowing much about the plan, and certainly not being willing to work with these seniors to figure out what was best for them.

The Baucus Medicare bill includes a number of improvements to the oversight of sales and marketing of Medicare Advantage plans, much needed and certainly a part of our responsibility, including banning certain practices such as door-to-door sales, cold calling, and free meals to seniors as an enticement to sign up.

We saw the invitations sent out to seniors for a free meal if they come and sign up for this package or seniors who simply get cold-called in their homes who get kind of hassled and made to feel insignificant to the point they say: OK, whatever, come see me.

It also asks the HHS Secretary to place limits on free gifts and commissions to sales agents. That is completely reasonable. We have heard of agents getting paid $10,000 for signing up up to 150 beneficiaries. That is not right. That is taking advantage of seniors who may not understand some of these programs and who need more time and assistance to be able to figure out what is right for them if, in fact, they need to change at all.

S. 3101 also requires private fee-for-service plans and Medicare Advantage to develop networks of providers to ensure care for beneficiaries and to measure and report on quality of care. Plans would no longer be allowed to deem a hospital or provider as part of the plan's network without negotiating an actual contract for payment and care.

In Arkansas, we have about 11 percent of our total Medicare-eligible population enrolled in Medicare Advantage. Most of these beneficiaries have the private fee-for-service plan type, and that is why it is especially critical to me that these plans work for our beneficiaries or, if they do not, that we get our seniors back into regular Medicare, where they can have their needs met. Let me tell you, we have worked hard. Some of these seniors have been duped. They called my office, we sat down with them, and we worked hard. Getting them back into traditional Medicare fee for service where they were, and they liked their service, is unbelievably difficult getting through that redtape over at CMS.

We have heard a lot of rhetoric on the Senate floor lately about ''choice'' and ''fiscal responsibility.'' However, I would like to ask: What kind of choice is it when the plan you chose doesn't meet your needs, and you chose a plan because you have been harassed by people who are either trying to make an extra $10,000 or who are just out there trying to sign up as many people as they possibly can?

As for fiscal responsibility, we already know the Medicare Hospital Insurance Trust Fund is estimated to be insolvent by the year 2019. When American taxpayers are subsidizing private companies' profits rather than the needs of our seniors, we are simply exacerbating that problem. We are adding to the debt of our children and our grandchildren. I, for one, would argue this is not fiscally responsible.

I hope we can move beyond the rhetoric. I hope we can have productive, bipartisan negotiations over the next days and weeks and make these many needed improvements to our Medicare Program a reality. Simply saying no is not good enough. It is hard to say yes sometimes, but the fact is the American people need us to be working right now. They need us to be focused and paying attention to the issues with which they are faced.

Yes, the price of gas is out of control. Yes, their food prices are going up. Yes, their health care costs are going up and their access is dwindling. The number of Medicare patients I know in my State who can no longer find doctors because doctors are no longer taking new Medicare patients—we actually experienced that in my own family. Our lifetime family physician who lived across the street passed away, my dad hit Medicare age, and all of a sudden we didn't have a physician. These are issues people in our States are facing every single day. The least we can do is bring forward measures that will show the people we are working toward figuring out some of these issues and some of these concerns that are hitting them square in the face.

As I said before, I stop and pump my own gas and I do the grocery shopping at my house. I have to say I see what they are up against. I think every one of us needs to take the time to figure out what it is our constituents are facing and redouble our efforts to work together to find the solutions that will make an impact on this great country and, more importantly, on its greatest asset and that is the working families of this great country.

I yield the floor.

The PRESIDING OFFICER (Mr. BAYH). The Senator from Oklahoma is recognized.

(The remarks of Mr. INHOFE are printed in today's RECORD under ''Morning Business.'')

Mr. VOINOVICH. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are on the motion to proceed.

Mr. VOINOVICH. Mr. President, I ask unanimous consent then that I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEBT

Mr. VOINOVICH. Mr. President, I rise today to comment on the need for fiscal responsibility and to call attention to our ever-increasing national debt. Building on a speech I gave in March, I hope to regularly provide my colleagues and the American people with updates on our growing national debt.

I recently voted against the budget bill that would have allowed the national debt to increase to $11.8 trillion over the next couple of years. We need to be reminded of the fiscal realities in which we find ourselves. We cannot continue to live in the United States of Denial.

Behind me is a chart that shows the accumulated national debt today. As of 2007, the national debt stood at almost $9 trillion. Today it is at $9.4 trillion, with each American owing some $31,000; that is, every man, woman, and child in the country owes $31,000. And the deficit for 2008 will be added to that number, including an average $273 billion a year in interest payments on that debt.

If interest rates increase, the interest payments could be much more, eating up revenues that could be used for other purposes. In January, the Congressional Budget Office projected a $219 billion deficit for 2008, but they did not include the $152 billion economic stimulus package that President Bush later signed into law in February.

With the addition of the economic stimulus bill and other recent changes in the baseline, CBO's updated deficit projection for 2008 is $357 billion. The Congressional Budget Office number also does not include borrowing from the Social Security trust fund and other trust funds to the tune of almost $200 billion.

We only talk about the public debt, but we do not talk about the debt, the money that we are borrowing from our own Government. In addition to all of this, soon we are going to be considering a supplemental appropriations bill to the tune of $193 billion which, again, will be added to the national debt.

So if we are really honest with the American people, the projected real debt for 2008 is $746 billion—$746 billion. That is more than three times the $219 billion deficit projected at the start of 2008.

Now, to get an idea of how much that is, $746 billion is more than we spent on the war on terror, including Iraq and Afghanistan and elsewhere, during the last 5 years. And we borrowed every penny of it.

The Treasury Department in April reported that the deficit through the first 6 months of the budget year to date was $311.4 billion, up 20 percent from the same period a year ago. That was the largest deficit for the first half of a budget year on record, surpassing the old 6-month mark of $302 billion that was set back in 2006.

The Federal deficit through the first half of fiscal year 2008 is an all-time high, underscoring the pressure the budget is coming under as, overall, our economy slumps, spending is higher, tax revenues are lower.

But the deficit only describes the annual difference between revenues and outlays. And that is not what is really threatening our future. We do not talk about it. It is the cumulative ongoing increase in our national debt that really matters, with too many people in Washington pretending this debt does not even exist.

When was the last time you heard the President of the United States talk about the national debt? I cannot remember. And he happens to be a Republican. One of the reasons I am a Republican is that I have always believed in balancing budgets and paying down debt. But we do not even talk about it. It is not even there. It is like it has evaporated. When have we heard the Presidential candidates talk about the national debt and what they are going to be doing about it?

Recently, USA Today reported that the Federal Government's accumulated long-term financial obligations grew by $2.5 trillion last year—$2.5 trillion—as a result of the increase in the cost of Medicare and Social Security benefits as more baby boomers retire.

I think $2.5 trillion is about what we spend on everything in the Federal Government each year. Taxpayers are on the hook for a record $57 trillion in Federal liabilities to cover the lifetime benefits of everyone eligible for Medicare, Social Security, and other Government programs.

If you figure it out by households, that is $500,000 per household in this country. When people come to me and ask me to spend money on a special program that they want me to spend money on, I explain our $9.4 trillion national debt and the fact that each of us owes $31,000. Then I ask them if what they want is important enough to borrow the money and put the cost, including interest, on the back of our children and grandchildren.

It is an interesting question that I pose to people. And they think about it. After a moment, the smiles on their faces vanish, and their answer is no. Unfortunately, however, our political leaders in Washington hide the real budget numbers from the public and fail to even mention the rising national debt.

Most Americans are clueless as to how fiscally irresponsible Congress and the administration have been. The U.S. Government is the biggest credit card abuser in the world. We talk to our kids and others: You have to watch credit. We are the worst example of a credit card abuser in the world.

You know what. The rest of the world gets it, which is why they are covering their bets on the U.S. dollar. So why do we refuse to see the warning signs? A decade ago who would ever have imagined that the Canadian dollar would be worth just as much as the U.S. dollar? I remember when it was two to one. Now the dollar's value has fallen by half.

A few years ago, one Euro was worth barely 80 cents; now it is worth more than $1.50. I think the President remembers when we were in Rome together that the dollar that we had bought 60 cents of a Euro. It is hard to believe. Then, to top it off, because of our deficits, we are forced to borrow money from other countries.

As a matter of fact, 51 percent of the privately owned national debt is held by foreign creditors. It is supposed to be held by the United States; that is public debt. But they have come in and they have 51 percent of it. That is up from 37 percent 6 years ago.

Foreign creditors provide more than 70 percent of the funds the United States has borrowed since 2001, according to the Department of Treasury. Think about it. And who are those foreign creditors? According to the Treasury Department, the three largest foreign holders of U.S. debt are China, Japan, and the oil-exporting countries known as OPEC.

As you know, we are sending them a lot of money because of the high cost of gasoline. So we send them the money and then they come back and they are now buying our companies and they are buying more of our debt. If these foreign investors were to lose confidence and pull out of U.S. Treasurys, ''Katey, bar the door.''

Borrowing hundreds of billions of dollars from China and OPEC puts not only our future economy but also our national economy at risk. It is critical that we ensure that the countries that control our debt, the countries that control our debt, do not control the future of this country.

To try to avert this train wreck, I have introduced the Securing Americas Economic Future—it is a commission—legislation that would create a bipartisan commission to look at our Nation's tax and entitlement systems and recommend reforms to put us back on a fiscally sustainable course and ensure the solvency of entitlement programs for future generations. My colleague, Senator ISAKSON, has cosponsored that.

Over in the House, Democratic Congressman JIM COPPER of Tennessee and a Republican Congressman, FRANK WOLF of Virginia, have introduced a bipartisan version of the same commission. In the House they have 93 cosponsors from both parties. This bicameral group has support from corporate executives, religious leaders, think tanks across the political spectrum from the Heritage Foundation to the Brookings Institution. Brookings is real liberal; Heritage is real conservative. They all agree we have to do something and we have to do it fast.

Building on that legislation, two of my colleagues in the Senate, the Budget Committee chairman from North Dakota and the ranking member from New Hampshire, introduced a bipartisan bill that would create a tax and entitlement reform task force very similar to the same commission. We call it the Bipartisan Task Force for Responsible Fiscal Action. There are 19 cosponsors of the Conrad-Gregg proposal. I have a commitment from Senator GREGG and Senator CONRAD that they were going to bring this bill to the floor so we could get the commission created. It is a 16-member commission: 14 members made up of the

House and Senate, and then two of the other members would be the Secretary of Treasury and also the head of the Office of Management and Budget. And the vision is that we would get that legislation passed this year.

By the way, the way it works is that if 75 percent of the people make a suggestion as to tax reform, entitlement reform, it gets an expedited procedure here, and we have an up-or-down vote like the BRAC process. You can't have our colleagues spend a lot of time doing this hard work and not guarantee them that if most agree about it, they are going to get a vote and it is not going to get stalled like so much other stuff that we would like to see and never do.

The thing that disappoints me—and I have greatest respect for the chairman of the Budget Committee, Senator CONRAD. We have worked together over the years on all kinds of things. He said he doesn't think we are going to get it out. He said that the Democratic, at that time, Presidential candidates, the last time I talked to him about it, decided that ''People don't want to do something extraordinary unless they are absolutely persuaded.'' I think we need to persuade our colleagues and the American people that entitlement and tax reform cannot be put off for another day. Wouldn't it be just great if we got this done? The new President comes in, puts in the head of the OPM and the Secretary-Treasurer, and they go to work. It would probably take them almost a year, but they would be able to come back and do something about tax reform.

When I tell people, they are shocked: $240 billion we all pay to someone to do our taxes. It is unbelievable. I am a lawyer. I used to do my own return. I used to do returns for my clients. I wouldn't touch my tax return with a 10-foot pole.

In fact, a couple weeks ago, my wife looked at our return and said: I don't understand it.

I said: I don't understand it either. We have to go see our accountant and have him explain what this is about.

She said: No, you don't. He will charge us $200 an hour.

I have to believe there are many Americans out there who have no idea what this is all about. We have had 15,000 changes in the code. It is overdue that we do this. Tax reform is a no-brainer. We have to do it. Even if we save half the $240 billion, think of the savings to Americans. By the way, that is a real tax reduction, and it doesn't cost the Treasury one nickel. I am hoping we can continue to push this with everything we have.

Recently, David Walker, former Comptroller General, accepted a new challenge by joining Pete Peterson's new foundation to address the undeniable fiscal challenges our country must face. I have known Pete Peterson for a long time. He is head of the Blackstone Group. He stated, in creating the foundation, he ''cannot think of anything more important than trying in this way to preserve the possibilities of the American Dream for my children and grandchildren's generations and generations to come.''

I would like to say a few words about Pete Peterson and David Walker. Pete is chairman of the Peterson Foundation. He was President Nixon's Secretary of Commerce. He was born in Kearney, NE, to Greek immigrant parents, received an undergraduate degree from Northwestern, and graduated summa cum laude. He then received an MBA from the University of Chicago and is now senior chairman and cofounder of the Blackstone Group. He is also chairman emeritus of the Council on Foreign Relations, chairman of the council's international advisory board, founding chairman of the Peterson Institute for International Economics, and founding president of the Concord Coalition, which I have worked with for the last number of years. Here is the son of an immigrant who has made a pile of money, and he is so worried about his children and grandchildren. I suspect he has a little money over the years, and his grandchildren and children are probably going to be a little better off than mine, most Americans. But here is somebody who is worried about the rest of us and our families.

The other is David Walker. David Walker is the president and CEO of Peterson. He is charged with leading the foundation's effort to enhance public understanding of the sustainability challenge that threatens America's future. If David Walker were here, he would have given a far more eloquent speech than I have to explain to my colleagues and to the American people where we are. The purpose of the foundation is to propose sensible and workable solutions to address these challenges and build public and political will to do something about them. Prior to joining the foundation, he served over 9 years as the seventh Comptroller General of the United States and head of the U.S. Government Accountability Office.

Here is a man who had a job, a good job, a high-paying job, and he is leaving it with 6 years left because he is so concerned about where we are. Everywhere he goes, he talks about this. I have been with him on several occasions. Somehow, we keep banging away, banging away, banging away, trying to get people to pay attention.

I have sent letters off to both the Presidential candidates. They are both Members of the Senate. Why don't they sign on to KENT CONRAD and to JUDD GREGG'S legislation, sign on, talk about the debt. Let the American people know we have a problem out there and they are going to do something about it. When people hear both candidates talking about this program and that program and now they are counting up how much money they are going to cost, at the same time they are talking about the programs, they ought to be talking about the debt. What are you going to do about tax reform? We have to ask these questions. We are running out of time.

I wish Pete Peterson and David Walker the best of luck in this endeavor. I look forward to working with them.

The time to act is now. When you look at the numbers, it is self-evident that we must confront our swelling national debt. We must make a concerted bipartisan effort to reform our Tax Code. Nothing works here unless it is bipartisan. That ought to be the flag we fly under the rest of this year. Working together, like the Presiding Officer and I are working on a couple pieces of legislation, is the only way to get something done around here.

It is a moral issue. When I first introduced the legislation that talked about it, I got a call from FRANK WOLF, a terrific guy. He said: You know, George, I want to join you. I haven't paid much attention, but this is a moral obligation. It is a moral obligation to our children and grandchildren.

I think most of us down here are worried about the legacy we are going to leave to the next generation. We have a lot to say about it. These are challenging times. I am confident that with the inspiration of the Holy Spirit, maybe we will get it and get on with some of these things that are long overdue so that we can get back on our feet again financially.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, before my friend from Ohio leaves the floor, I want to tell him, through the Chair, that he has his finger on the right issue. There are so many of us here in this Chamber on both sides of the aisle who recognize that the fiscal house of America is in a disastrous condition, and how we move forward when we get a new President in 2009 is going to be very important in terms of how we address the fiscal reality and fiscal challenges we face.

I think the recklessness we have seen with respect to this mountain of debt, which my good friend from Ohio has pointed out is now nearing the $10 trillion mark, is something we have a moral obligation to address. I know among colleagues on both sides, including Senator CONRAD and Senator GREGG, there have been conversations about how we might be able to develop a process to try to get our fiscal house back in order. And I appreciate the leadership of my friend from Ohio on this issue.

Mr. President, I come to the floor to talk about an issue which has been talked about here quite a bit over the last several days. It has to do with what people think is an easy solution that will deal with the gas price and energy crisis we face here in America.

I have heard several of my colleagues come to the floor saying we have a panacea here—just develop the oil shale of the West, just develop 2 trillion barrels

of oil that are locked up in the shale of the United States of America, 80 percent of which is in Colorado, and somehow we are going to wave a magic wand and that magic wand will automatically start creating these billions and trillions of barrels of oil that all of a sudden will bring about this abrupt decline in the price of gasoline and the price of oil.

There is a lot of hot air in those statements that are being made because the reality of it is that oil shale development in Colorado is still a long way away. That is because the research and development program, which we approved in this Congress, in the Senate, in the 2005 Energy Policy Act, contemplated that we would enter into a research and development phase to determine whether oil shale could be commercially developed.

Why is that so important? It is important, first of all, because for 100 years people have been looking at the possibility of developing the oil that is locked up in the shales of mostly Colorado and some in Utah and some in Wyoming, and they haven't been successful. We have had the largest economic bust of the West and in western Colorado in 1980s, as major companies tried to develop oil shale and found out, after investing billions of dollars, that they simply could not under those technologies.

It is easy to understand why. It is because when you look at where the kerogen is, which is the oil substance, it is locked up in the rock. It is shale. There is a reason why they call it oil shale. It is not kerogen. It is shale. It is rock.

So when my friends come to the floor on the other side and say: Hey, here is a panacea to deal with the high gas prices of today, I would ask them all, with all due respect, to simply look at the reality of oil shale and its potential and also to look at its limitations.

Chevron, which is one of the largest oil companies in the world and a company that has been interested in looking at the possibility of oil shale development, in submitting its own comments to the Department of Interior's Bureau of Land Management, as they moved forward with their programmatic environmental impact statement on commercial oil shale development a few months ago, said:

> Chevron believes that a full scale commercial leasing program should not proceed at this time without clear demonstration of commercial technologies.

That was a statement by Chevron on March 20, 2008. Yet there are myths being spread across the country. There are people who are talking to newspaper editorial boards and all around the country saying that all we have to do in America is go to Colorado, go to the western slope, go get the trillion barrels of oil locked up in that rock and, hey, we will solve all of our gas problems in America. That is simply not true.

I want to first go through what I think are some myths with respect to oil shale development, myths that have been propagated by some who, frankly, have the financial interest and concerns of only the oil companies, not the interests of the environment and of developing real solutions to the energy problems we face.

Myth No. 1 is that we on this side, including myself and other Democratic colleagues, are in fact stopping oil shale from being developed. Nothing could be further from the truth.

In 2005, under legislation that we offered out of the Energy Committee in a bipartisan way, with the leadership of Senator DOMENICI and Senator BINGAMAN, we included oil shale provisions which I helped to write. Those oil shale provisions created an orderly process for us to move forward with oil shale development. That legislation, which came out of committee and which came out of this Chamber, included sponsors: Senators HATCH, ALLARD, myself, DOMENICI, and BINGAMAN. What that legislation asked the Secretary of Interior to do—in fact, it did not ask; it directed the Secretary of Interior—was to enter into a research, development, and demonstration program on oil shale.

Since that time, not so long ago, 2005—we can still remember that, just a few years ago—six of these leases have already been issued. Five of them are in Colorado. Three of them have been issued to one company, the Shell Exploration and Production Company.

Under the provisions of the law that we included in that legislation, it is also important to remember that with the 160-acre research and development lease, these companies also have the right to convert those research and development leases to 5,000 acres. That is 5,000 acres of our public lands for R&D lease. That is 5 times 5, 25,000 acres that can convert over into full-scale commercial development, if they should so wish. So we have a program that is already underway.

Now, the Bureau of Land Management has decided to move forward with a commercial oil shale leasing program under provisions that were stuck in, in the dark of night, in the conference committee over in the House of Representatives that seem to direct the Bureau of Land Management to move forward with a commercial oil shale leasing program.

I do not believe, nor do many of the leaders in my State of Colorado, including our Governor of Colorado, that this is the way we ought to move. Governor Freudenthal in Wyoming does not believe this is the way we should move forward on the possibility of oil shale development. They support the legislation I have introduced on how we move forward with oil shale development. It is very simple legislation. I introduced this legislation that would clarify the process for us to look at how we move forward with oil shale development.

Let me simply walk through what the five steps would be.

First, the BLM would have 1 year to complete an environmental review of a commercial oil shale leasing program. That is a good amount of time for the BLM to look at completing the environmental review of something which is going to be so impactful to the Western Slope and to the State of Colorado.

Second of all, because we believe in making sure the States are providing us input on these Federal lands, which is so important to us in the West—it is so important to us in the West in large part because a third of my State is owned by the Federal Government. The Federal Government is the largest landlord we have in our State. So it has always been important for us to make sure the States and local governments are having input into the development of the resources that are on those Federal lands. My legislation would allow the Governors of the affected States to have 90 days—90 days is not a lot of time—to comment on a commercial oil shale leasing program.

Third, the legislation would give the BLM a year to develop a commercial leasing program and to propose the regulations to accompany it—all, I think, very reasonable pieces of the legislation.

Fourth, the Department of the Interior and the National Academy of Sciences would prepare reports to Congress on the technology and the proposed plan for oil shale development.

Finally, oil shale development would have to comply with our already existing environmental laws—a very simple, straightforward process for us to look at how we can develop oil shale.

There are people out there who are saying we in Colorado oppose oil shale development or that Democrats have opposed it. That is simply not the case. We did not oppose it in 2005, and we do not oppose it today. We simply say we want to move forward in a thoughtful and responsible way as we look at the possibility of developing oil shale.

So myth No. 1—that we are opposed to oil shale—is simply false. It is a myth. It is not true.

Secondly, there is another myth out there that says the current moratorium which is in place as a result of legislation which the Congress adopted last year on commercial leasing regulations is somehow preventing energy companies from developing oil shale, that we are somehow preventing the oil companies from developing oil shale today. Again, that is a myth. It is not true.

The reality is, the BLM has clearly stated that the current moratorium on issuing commercial leasing regulations will have no effect—no effect—on U.S. energy supply or on when commercial oil shale production could begin.

I have here a part of a transcript of a hearing we had in the Energy Committee not too long ago, where we had the Assistant Secretary of the Department of the Interior, Secretary Allred, come before our committee and testify about the potential of oil shale. It debunks the myths that somehow we are

going to wave this magic wand and all of a sudden, this year or next year or the following year, we are going to have all this oil flowing from oil shale in the West.

I asked Secretary Allred:

When I look at your chart on oil shale development on public lands, you have at some point on that chart this little brown dot that says ''project completion: phase 3—commercial.'' When do you think that will happen? What year?

Assistant Secretary Allred responded:

Senator, it's hard to predict that because . . .

I asked him the question:

2011?

Secretary Allred's response:

Oh no, I think, I think . . .

I then asked Secretary Allred:

2016?

Secretary Allred responded:

Probably in the latter half of, say, 2015 and beyond.

''2015 and beyond.'' So that is what the Assistant Secretary of the Interior, responsible for this program, is actually saying, that we would be ready possibly to move forward with commercial development of oil shale in the year 2015—7 years from now.

Why, therefore, is there such a rush to move forward headlong today and to complete the development of commercial oil shale regulations before the end of the Bush administration? Why is that the case? I do not understand it because it is not going to produce any oil that will help us deal with the energy crisis we face in the Nation today or tomorrow or the next year. So we have to keep asking those questions.

There is another part of the myth with respect to oil shale, and that is that we need to understand that even companies such as Chevron and others do not know what kind of technology ultimately is going to be viable for us in the development of oil shale. Even Jill Davis from Royal Dutch Shell Corporation, in the Rocky Mountain News, is quoted as saying:

The thing is we have to determine whether it works on a commercial scale.

So there are lots of myths.

Myth No. 3 is that the BLM is prepared—I hear some of my colleagues come to the floor and writing letters and making statements in the media—that the BLM is prepared to issue commercial oil shale leasing regulations because the BLM knows the nature and the needs of the development of oil shale, including water and power requirements.

Nothing could be further from the truth. BLM has clearly stated it does not know how much water would be required to implement and carry out a commercial oil shale leasing program. So how can we move forward with a commercial oil shale leasing program when we do not know how much water would be required to develop this oil shale?

In a hearing, again with Assistant Secretary Allred, I asked the following question:

Let me ask you about water availability. Under the Colorado River Compact, as described, there is a significant share of water of the Colorado River between all of the seven States—Upper Basin, Lower Basin—we have a share of water within Colorado that we are entitled under the compacts to consume for Colorado water users. Do you know, today, how much of that water consumption under those compacts would be required to be able to implement a commercial oil shale leasing program?

Secretary Allred's response:

Senator, we do not. And that's part of the . . . that's part of the purpose of the R&D leases—to try to determine that.

So how can we move forward headlong with a commercial oil shale leasing program when we have no idea how much water is going to be consumed in the development of these so-called half a trillion or a trillion barrels of oil? We do not know because we do not know how much water is going to be required based on whatever technology ultimately might be chosen.

Another myth is that the BLM, Department of the Interior, is absolutely ready to move forward with a commercial oil shale leasing program because they know what they are doing with respect to the power requirements.

They do not know what the power requirements are going to be. Producing 100,000 barrels per day of oil shale will require approximately 1.2 gigawatts of dedicated electric generating capacity. The question is, where is that electricity going to come from? Where is that power going to come from? What will its impact be? None of those questions have been answered. Yet the Bureau of Land Management is insistent on completing this commercial oil shale leasing program as fast as they can. I think, again, they are wrong.

There is another myth out there that says without commercial leasing—I hear some of my colleagues say this—without commercial leasing regulations from the Bureau of Land Management, investors may decide to stop risking their capital on oil shale and instead focus on other projects with more certain returns.

That is not true. The reality is the commercial leasing moratorium is giving BLM, investors, energy companies, scientists, Congress, and local communities the time they need to get more information about oil shale development and to allow the technologies to mature before any full-scale operation begins on public land.

Again, as Chevron commented in the Programmatic Environmental Impact Statement:

Chevron believes that a full scale commercial leasing program should not proceed at this time without clear demonstration of commercial technologies.

So there are a lot of myths with respect to oil shale development.

Mr. President, I have several more minutes to go, and I see the assistant majority leader has come to the floor, so I will yield to him if he would so choose.

Mr. President, I will continue.

Myth No. 5. Somehow or another, those purveyors and artists of wanting to move forward with oil shale development with all speed ahead are saying this is somehow supported by the State and local governments it affects.

Well, more than half—probably 75 percent—of all the oil shale resources are located in my State of Colorado. The Governor of the State of Colorado, Bill Ritter, says let's go slow and be thoughtful about oil shale development because we know the kind of impact it can have on the vast Western Slope of the State of Colorado. But it is not just the Governor of the State of Colorado who says that, it is also the Governor of Wyoming, Governor Freudenthal, as well.

Within my State of Colorado, there is a whole host of local governments that are very concerned about the Department of the Interior and the BLM moving forward, rushing headlong, moving recklessly to develop oil shale on the Western Slope without knowing yet what they are doing. Joining in stating those concerns are the City of Rifle, the town of Silt, the Pitkin County Board of County Commissioners, the Routt County Board of County Commissioners, the San Miguel County Board of Commissioners, the Front Range Water Users Council, the Northern Colorado Water Conservancy District, the Colorado Springs Utilities, Aurora Water, the Board of Water Works of Pueblo—and the list goes on and on.

Even the newspapers in Colorado are saying this. This is an editorial that was written in the Grand Junction Daily Sentinel. The Grand Junction Daily Sentinel is the newspaper that covers the 20 counties of the Western Slope of Colorado. This is what the Grand Junction Daily Sentinel said:

There is no need to accelerate leasing of federal land for commercial oil shale production. The notion that the one-year moratorium on commercial leasing approved by Congress last year is somehow a barrier to commercial development is nonsense. If anything, that moratorium should be extended.

The real barriers to commercial oil shale production are technological, environmental and financial.

The Denver Post, the State's largest statewide newspaper, said the following:

Given that oil from shale isn't just around the corner, and given the vital questions of water and energy, shale development deserves the most careful—and lengthy, if necessary—study possible.

Developing oil shale has been a dream since the early 20th century. But careful planning is needed to make sure the dream doesn't turn into a nightmare.

In conclusion, what I want to say is I think Chevron is correct today, that it is a mistake for the Department of the Interior and the Bureau of Land Management to want to push forward to complete the implementation of the Bush-Cheney agenda with respect to oil and gas and oil shale development. They want to rush head long to get this done before the end of the administration when we know that there are so

many technological barriers and so much we do not yet know about how we are going to develop oil shale. So Chevron is correct when it says we are not ready to move forward with a full-scale oil shale program.

Let me conclude by simply saying this: For me, as a longtime farmer and rancher and as a person who has spent my life fighting to protect the beauty of Colorado, fighting for the land and water of that State, it is important for me always, as a Senator, to remember that the planet we have and the great State of Colorado I have is something I need to protect for my children and for my grandchildren and great-grandchildren for generations to come. It would be a mistake for us, in my view, for the State of Colorado or the United States of America to move forward with a program that is going to create significant problems to that legacy we are attempting to give to our children and to our grandchildren. I hope we could work together in a bipartisan basis to look at the possibility of the development of the oil shale resource but to do it in a thoughtful and deliberate way so we don't destroy the environment along the way.

Mr. President, I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

REPUBLICAN FILIBUSTERS

Mr. DURBIN. Mr. President, I thank my colleague from Colorado for his statement on oil shale. I wish to tell him a little story that goes back many years. When I first was involved in political life, in 1966 as a college student I worked for a Senator from Illinois named Paul Douglas who used to give speeches about oil shale, saying there is a great untapped natural and national resource of oil shale in the Rockies, in Colorado, and in other areas. Yours is the first comment I can remember on the floor of the Senate in all of those years relating to this issue again. I am glad the Senator from Colorado not only brought it up but put it in perspective in terms of our national energy needs and the impact of oil shale exploration and production in the Senator's State. I think he has every right to be careful in what he does.

I hear many colleagues, particularly from the Republican side of the aisle and from the White House, suggesting the reason we have our gasoline prices today and high crude oil prices is because we are not drilling for oil in ANWR, the Arctic National Wildlife Refuge. I, for instance, personally think that is an oversimplification, that that one potential source of oil could in no way solve our problems in terms of what it could produce.

I might call the attention of my friend and colleague from Colorado to some information that was given to me today. I hope the Senator from Colorado is aware there are 44 million offshore acres, off the shores of the United States of America, that have been leased by oil companies—44 million. Of those, only 10.5 million have been put into production. One-fourth of all of the leased offshore acreage oil companies currently hold—land that the Federal Government has a right to—is being actually explored and utilized. Of the 47.5 million onshore acres under lease for oil and gas production, only 13 million are in production; again, about a fourth. So three-fourths of all of the land offshore and on shore owned by the Federal Government and the taxpayers, leased by oil companies for the potential production of oil and gas, is actually in production. Only one-fourth. Combined, oil and gas companies hold leases to 68 million acres of Federal land in waters they are not producing any oil and gas on—68 million. That is compared to 1.5 million acres in the Arctic National Wildlife Refuge.

So those who come to the floor and say: ''You know the problem here? We are just not opening up enough area for oil and gas exploration,'' ignore the obvious. Oil and gas companies spend money to obtain them and then sit on them and then come back to us when we complain America needs a national energy policy and say the real problem is the Arctic National Wildlife Refuge. ''If we could just have a crack at those 1.5 million acres,'' after they have taken 68 million acres, put them under lease, and are not utilizing them.

I might add that Congressman RAHM EMANUEL from my State of Illinois and Congressman DODD are working on legislation that would say to these oil and gas companies: If you are going to lease this land and not use it, the cost of the annual lease is going to keep going up. Let someone else lease it who might use it. I think that is reasonable. They are suggesting that money from the leases should be dedicated to wind and solar energy—energy-efficient buildings; LIHEAP—which I know would be a good idea for the Senator who is now presiding who is from New England; weatherization assistance, and a number of other areas.

I thank the Senator from Colorado for his thoughtful reflection on what we are facing here.

Mr. SALAZAR. Mr. President, will the Senator from Illinois yield for a question?

Mr. DURBIN. I am happy to yield.

Mr. SALAZAR. Through the Chair, I ask my friend from Illinois whether it is true that we have already opened huge amounts of offshore resources as well as onshore resources for the potential development of oil and gas and that ultimately, if we are going to get our Nation to have the kind of energy independence and national security that has been talked about now for 30 or 40 years, we need to, yes, develop those potential resources and those 75 percent of those offshore and onshore lands the Senator spoke about, but also to look at a whole new agenda of clean energy that will help us get to our national security, our environmental security, and create an economic opportunity here at home?

Mr. DURBIN. I would respond to the Senator from Colorado and tell him, yes, of course. He has anticipated the reason I came to the floor: to discuss what happened this week in the Senate or, to be more accurate, what didn't happen this week in the Senate. Because on Tuesday, we offered to the Senate, both sides, Democrats and Republicans, an opportunity to debate what the Senator from Colorado suggested, whether we will invest as a nation in energy and job creation. The Senator from Colorado knows what happened as well as I do. The Republicans refused to join us to bring to the floor to debate the bill that would create tax incentives for investments in energy efficiency, renewable, sustainable energy that will not lead to global warming and will not lead to pollution. The frustration that I and other Members on the Democratic side feel comes from the fact that we have tried repeatedly to bring these measures to the floor and we have been stopped time and time again.

I say to my colleague and friend from Colorado, through the Renewable Energy and Job Creation Act, we can create incentives we know will work. In my home State of Illinois, and probably in the State of Colorado, we are finding wind turbines being built in massive numbers to generate clean electric power. Near Bloomington, IL, an area I never would have dreamed of as a wind resource area, 240 wind turbines are being built. They will generate enough electricity there to provide all the needs of the two cities of Bloomington and Normal, IL, without pollution, using nature as a source.

Why did this recently happen? Because we created, over the last couple of years, incentives for businesses to do it. Now when we come this week to the floor of the Senate and say to our Republican colleagues: Let's not stop this now; this is a move in the right direction for green energy sources, what did they say? ''We don't want to even debate it.'' They stopped us again.

This week in the Senate—

Mr. SALAZAR. Mr. President, would the Senator from Illinois yield for a question?

Mr. DURBIN. I am happy to yield.

Mr. SALAZAR. Through the Chair, I ask of my friend from Illinois how important the extension of these energy tax credits is for renewable energy, given the fact that this is not pie-in-the-sky kind of technology we are talking about. As I understand, in my State—and I know there are already three solar powerplants that are functioning—there is a plan in the State of Arizona to put together a 400 or 500-megawatt powerplant that will be powered by the Sun, a 200-megawatt powerplant in the State of California, a whole host of ways in which the Sun can become harnessed for our energy needs.

The same thing is true with respect to wind. As my good friend from Illinois talked about, what is happening in

Illinois is happening across America, including in my own home State of Colorado where we have gone from almost no wind production 3 years ago to 1,000 megawatts, and there are three or four coal-fired powerplants in my State.

So how important, I ask my friend from Illinois, would the extension of these tax credits be until 2015, 2016—however we end up finally reaching that number—to continue investing in harnessing the power of the Sun, the power of wind, the power of biofuels?

Mr. DURBIN. I say in response, through the Chair to the Senator from Colorado, if we don't extend these Federal renewable energy tax credits, America could lose 76,000 jobs in the wind industry, 40,000 jobs in the solar industry. The bill the Republicans refuse to allow us to bring to the floor to even debate provides $8.8 billion for research and development investment. This year alone, over 27,000 U.S. businesses would use this tax credit to benefit companies in computers and electronics, chemical manufacturing, information services, and scientific R&D services. The list goes on and on. The Renewable Energy and Job Creation Act, which they would not allow us to bring to the floor to debate this week, includes $18 billion in incentives for clean electricity, alternative transportation fuels, carbon sequestration, and energy efficiency.

I say to my friend from Colorado through the Chair that this is nothing new. So far, during this session of Congress, the Republicans have engaged in 76 filibusters as of today. The record in the Senate for any 2-year period of time was 57 filibusters. A filibuster is every Senator's right to stop any bill, any nomination, for an indefinite period of time, and that filibuster can only be broken if 60 Senators vote to break it. It is called a cloture motion. We tried three times this week to break Republican filibusters, first on a bill dealing with the price of gasoline to try to bring it down and make it more affordable. The Republicans filibustered it. When we had our vote, we couldn't find 60 votes because they wouldn't cross the aisle to join the Democrats in breaking the filibuster and debating specific ways of bringing down the price of gasoline.

We followed that with a measure to deal with, as I have said here, tax incentives for the right energy decisions for our future. The Republicans initiated another filibuster. We called it for a vote. We failed to come up with 60 votes again because we only had nine Republican Senators who would cross—well, I think the number was seven Republican Senators who would cross the aisle and join us. We needed more. Out of 49, we needed about 10 or 15. We didn't get those. So that bill to create incentives for businesses and individuals to make the right energy decisions was defeated by another Republican filibuster.

The last thing we considered was related to another program. It had nothing to do with energy but a lot to do with health care. We wanted to make certain the Medicare Program continued to reimburse the doctors and medical professionals who provide critical care for 40 million elderly and disabled Americans. The Bush administration wants to cut their compensation by 10 percent or more. I think it is unfair. These men and women are not being paid as much as others, and they are providing critical health services to a lot of needy people. The Bush administration, which is no fan of Medicare or Social Security, wanted to cut their reimbursement. Well, they will cut that reimbursement and fewer doctors will participate in the program and seniors will have a more difficult time getting their care.

So we started to bring to the floor a measure that would restore the pay for doctors helping patients under Medicare and we also provided some incentives in there for better practices to reduce overall costs to the Medicare Program. We paid for it by looking at the Medicare Advantage Program. The Medicare Advantage Program allows private insurance companies to offer Medicare benefits. The Republicans have always favored that, saying that creates a competitive atmosphere. Medicare competes against private health insurance when it comes to basic Medicare coverage. As a footnote, it is ironic that they would welcome this kind of competition from Medicare, but fought us tooth and nail when we tried to bring the same competition when it came to prescription drugs. Nevertheless, we said this Medicare Advantage Program costs too much money for the services provided. We have had expert testimony that it is about 13 percent more expensive for private health insurance companies to offer the same benefits as the Medicare Program. We took savings from that program and paid for the increase in pay for doctors under Medicare.

We didn't add to the deficit. I suppose that is why the Republicans, by and large, have turned on us. They don't want to pay for the actions they bring to the floor. They don't want to offset the costs of programs or tax cuts by actually balancing the books. They want to continue to add to our deficit.

The vote came up today, and nine Republicans crossed the aisle to vote for us. Overwhelmingly, they represented Republican Senators who are afraid they are going to lose in the election in November. They came over to join us and vote for our position. The Republican leadership was careful not to let too many come over. So at the end of the day, we were unable to bring this Medicare bill to the floor for debate.

So here we are at the end of a full week of the U.S. Senate, in Washington, DC, in our capital, on Capitol Hill, and we are beset by a world about us in turmoil, with the war in Iraq; we have a nation that is torn by energy prices, gasoline prices, and diesel prices; we have Americans concerned about their health care, and when we try three different times to bring to the floor of the Senate measures that address these challenges, each and every time the Republicans answered with a filibuster and stopped us from acting.

The sad reality is that the GOP, the Grand Old Party, has become a ''Graveyard of Progress.'' I am afraid that is what GOP stands for these days. They cannot face the possibility of change. They are frightened by it, determined to stop it. They have stopped it with 76 filibusters, which is a recordbreaking number of filibusters in the Senate.

Well, we could not come up with 60 votes to turn that around; there are not enough Democratic Senators. The final word will be in the hands of the voters in November, on November 4. They can decide whether they want change in Washington, change in the Senate, or more of the same. They are going to have that opportunity in a series of elections. I hope those who follow this debate and believe this Government, working in a constructive bipartisan way, can achieve good things, will remember that when they go to the polls in November.

Let me say as well, Mr. President, that I have watched this Presidential campaign carefully because my colleague from Illinois, Senator OBAMA, is now, as they say, the ''presumptive Democratic nominee'' for the Presidential nomination. A long campaign awaits us, almost 5 months. Senator MCCAIN is a substantial and formidable opponent in this election campaign. But make no mistake, the voters are going to have a clear choice in this election about who will represent them in the White House for the next 4 years.

We are also initiating the first national dialog on health care reform in 15 years. For 7½ years, the Bush administration has summarily ignored the major problems facing America. When President Bush gets up in the morning and looks out the window of the White House, all he sees is Iraq. For 7½ years, that has been the focus of his attention and the centerpiece of his energy. I will tell you, there are many other things this President ignored at the peril of our great Nation. His economic policies have brought to us a sorry state.

Last Friday, we had the terrible announcement about a dramatic increase in the price of crude oil, an increase in the price of gasoline, a substantial increase in unemployment, and a 350-point loss in the Dow Jones, in the stock market. It was a sad and gloomy Friday across America from an economic viewpoint. But even those large numbers—the big numbers that come to us at the lead of any newscast and on the front page of the paper don't tell the true and complete story.

The Senator from Vermont invited his constituents to talk about challenges they face as families all across his State. He has told me and our colleagues—and has spoken on the floor

about it—that he was overwhelmed by the response. Ordinary people in Vermont—and I am sure those in Illinois are having a tough time—are struggling to pay for gasoline, for the increased cost of food. They understand utility bills are going to be challenging this summer to cool their homes, as we face a brutal summer in most parts of the country. They are scared to death, I know, in New England—because I visited there—of dramatic increases in the cost of home heating oil this winter. Those realities are translating into economic insecurity for some of the hardest working families in America.

If you just could consider what has happened under the Bush administration to the middle of the middle class in America. These are folks who are working hard every day, trying to raise families, are playing by the rules, and they are falling further and further behind. These are the ones, many times, who are losing their homes because of subprime mortgages and deceptions which led them to an indebtedness they could not handle, and now they face the loss of their home, one of their major assets, if not their only asset. They have transferred their debt onto credit cards as often as they can, but they reach a breaking point.

A friend of mine is on the risk committee for a major bank in this country. He told me that the balances on credit cards are going down because people realize they cannot pay any more and they cannot buy things they need. But the default on credit cards is going up, leading to even more bankruptcies. That is the reality.

President Bush doesn't understand that reality. His economic policies, which are supported by John McCain, are really based on one basic principle: cut tax rates for the wealthiest people in America. They continue to believe that if wealthy people have more money, somehow this will translate into a better quality of life for those working families and middle-class families who are struggling to survive. Well, 7½ years of that thinking led us to this point. These people, faced with the Bush economic policies, are struggling to get by.

The President doesn't understand the energy picture. Every 6 months, he makes a trip to Riyadh, Saudi Arabia, and is seen holding hands with the sheiks of Saudi Arabia, begging them to release more oil into the United States and bring prices down. But they give him a pat on the back and send him off with the very curt answer of ''no.'' They tell him time and again that they are not going to release more oil. They have plenty of customers around the world and they don't need the United States. That is the reality and totality of the Bush energy policy.

This President has yet to call in the CEOs of the major oil companies. In this country, these companies are reporting recordbreaking profits at the expense of families, businesses, farmers, and truckers. This President has yet to call them in and hold them accountable for what I consider to be pure greed when it comes to profit-taking. He won't call them in because, apparently, he believes that is the natural course of events, that some who are in a virtual monopoly position, providing energy and oil to this country, ought to have whatever profits they can reap at whatever cost to America's families and our future. I think the President is wrong.

There is another issue, the issue of health care. We know that under this President, more people have lost health insurance than ever in our history. People who had health insurance lost it because they lost a job or they could no longer afford it. Now they are completely vulnerable to any illness or diagnosis that could bring them down tomorrow and virtually destroy all of the savings they have. The status quo in health care in America isn't satisfactory. The American people know that. Despite President Bush's inaction, they want change.

Premiums for health insurance have been rising more than twice as fast as employees' wages, while this administration has been in power. The number of uninsured Americans has been increasing by more than a million people a year under President Bush. Each year, the United States spends about twice as much for health care per person as other developed nations. The closest nation in spending for health care to the United States per person, per capita, annually, is Luxembourg, which spends less than half of what we do. We spend about $7,000 per year on health care per person. The United States, despite all the money being spent, continues to score poorly on measures of the public's health, such as life expectancy and infant mortality.

The challenge for this country and for the American people is making quality health coverage available and affordable for all Americans. We must take steps to improve quality and make our health care system more efficient so that we can get the greatest value for every health care dollar we spend. We have to put our health care ideas on the table and start the real debate about change.

My colleagues on the other side of the aisle have put forward some ideas on health care reform. I applaud them for acknowledging the need to change, but I am concerned with the direction in which they want to take us.

One of their ideas is to create incentives for more people to buy health insurance in the individual insurance market. Those who support this idea talk about it in glowing terms. Think about it. They say you could choose your own health plan and keep your health plan when you change jobs. But they ignore the most important implication of that idea: You are on your own. Remember President Bush's famous ownership society, the ownership society that wants to privatize Social Security? Thank goodness that was rejected on a bipartisan basis. The model of the ownership society of President Bush and the philosophy behind this thinking is very basic: Just remember, we are all in this alone. That is their notion. It doesn't work. It doesn't work in life. It doesn't work in your family, in your community, or when it comes to health insurance. Anybody in a less-than-perfect health care situation doesn't want to be on their own. It is a place you end up when you have no option.

In most States, insurers are free to tell a person they won't cover them for a particular medical condition. To the cancer survivor, they can say: Congratulations for surviving cancer; we will cover you for everything else that might affect you but not for cancer. Or they can deny coverage altogether. Many of us in this Chamber would have trouble finding health insurance in the individual market, if it were available, and it might be too expensive. This would be a health insurance system the Republicans support that is a great idea for the young, healthy, and the wealthy but not for the rest of America. It would move our health insurance system in the wrong direction.

Those on the other side of the aisle are having trouble responding to these criticisms. They appear unwilling to require insurers to cover everybody, regardless of their health condition, or to require greater sharing of health costs between the young and the old and between the healthy and the sick. That would require Government regulation. They don't like to have the Government involved. They want the market to reach the conclusion. The market has already reached a conclusion when it comes to health care, which is that the cost of health care and coverage will increase every year, and it will cover less every year. That is what the market says, and that is what they accept.

They are caught in a dilemma because the free market insurance system, without reasonable regulation, means allowing health insurers to enroll the healthy and exclude the sick. To get out of this ideological quandary, they have proposed an idea: creating high-risk pools for everybody insurers don't want to cover. Insurers would probably like that idea, to take the people for whom it is most expensive and put them in a separate pool.

Today, high-risk pools exist on a small scale in 34 States. These State high-risk pools can serve as a life preserver for people who have nowhere else to turn in the current health insurance system, but they should not serve as a foundation of a reformed health system.

State high-risk pools have many shortcomings. They are not often able to cover everybody who can't find affordable health insurance. Premiums are way too high. In Illinois's high-risk pool, a 50-year-old woman would have to pay more than $800 a month in premiums for a policy with a $500 deductible. Benefits are often limited. With

these shortcomings, I cannot understand how these high-risk pools could be the bedrock of the Republican position when it comes to health care reform.

Some of my colleagues on the other side of the aisle also want to allow insurers to choose which State insurance regulations they want to live by. Proponents say this is a way to let all insurers sell insurance nationwide. But if you follow this, you know that doesn't work. Without State regulation and basic State requirements on coverage, there is no guarantee of solvency and no guarantee of coverage when you get sick.

If enacted, these changes would move our system in the wrong direction. Instead of pooling people together, those who are well and those who are sick, to spread the risk, Republicans would have us separate the healthy from those who are not healthy. Instead of helping people with chronic diseases, they are pushed over into high-risk pools with high premiums.

The whole point of expanding health coverage is to make sure you have access to quality, affordable insurance. Changes to our health insurance system that make health insurance cheaper for some but more expensive for others is hardly a solution. We need to create large purchasing pools and offer a wide range of plans. Change the rules for setting premiums so that health costs are shared more broadly between the healthy and the sick. We need to provide a tax credit to businesses that step up and say: We believe the health of our employees is as important as the money we pay them. We are going to make a sacrifice in our profit taking so that our coverage extends to not only the owners of the company but the employees. That kind of good, responsible civic conduct should be rewarded in our Tax Code.

I am glad we are starting to discuss health care reform again. Nothing is going to happen under this President. We are going to have to just count the days until January 20, 2009, when this President leaves office and another President comes to office, and the American people will then have a real chance for real change.

Mr. President, I yield the floor.

OIL PRICES

Mr. AKAKA. Mr. President, within the span of 1 week, the Senate missed three opportunities to engage in productive debate on how we can combat the rising price of oil, and alleviate the dangerous emission of greenhouse gases that contribute to global climate change. It is highly regrettable that we have missed these opportunities, especially when it comes at the expense of improving the Nation's welfare.

Americans are working harder, yet finding that their paychecks are not keeping up with inflation. Many are finding it difficult to pay their mortgages, health care expenses, and other daily needs. While relief, for some, is expected this July from an increase in the national minimum wage, more must be done to improve the lives of working families. Unfortunately, it has been difficult to work with this administration to make any meaningful changes that would assist working families.

On June 10, the Senate was blocked in its attempt to further debate two bills offering legislative solutions to rising oil prices and our reliance on foreign oil. One of them, the Consumer-First Energy Act of 2008, would have put consumers' concerns before those of the oil companies, by holding the companies accountable for price gouging and profit taking.

Families do not need to be reminded that rising oil prices contribute heavily to their rising bills for energy, transportation, shopping and groceries. These families, for the most part, have not had a corresponding increase in their wages. They find themselves in difficult financial positions, and having to make tough choices on what necessities to spend their money on. This strain is even more evident in my home State of Hawaii.

Hawaii depends on imported oil to supply more than 90 percent of our energy needs. The record-high crude oil prices cause higher processing charges for food and other manufactured items. The increase in cost for Hawaii's foods is due in large part to the higher cost of transporting the goods to the islands—80 percent of Hawaii's food products are imported via ship or airplane. Grocery prices have seen their biggest increase in nearly two decades.

Furthermore, the high cost of jet fuel results in higher airfare prices and reduction in flights significantly limit travel for Hawaii residents and tourists. The reduction in visitors traveling to Hawaii could hurt our economy. While the Hawaii Visitors and Convention Bureau is proactively working to aggressively resuscitate the market, the hotel occupancy in April hit a 5-year low. The city of Honolulu is considering raising taxi meter fares in light of record gas prices and the downturn in tourism.

The administration must work with us to help our families and our communities by finding a way to decrease fuel prices. In addition, we must search for ways to reduce our dependence on oil. It is necessary that we continue to debate our energy future and enact appropriate reforms.

Meaningful debates on three significant bills were unfortunately curtailed, despite the agreement of many members that we must do something about increasing oil prices, our reliance on foreign oil, and the need for cleaner energy. The aforementioned Consumer-First Energy Act of 2008, the Renewable Energy and Job Creation Act of 2008, and the Lieberman-Warner Climate Security Act of 2008, would have helped the Nation move forward by continuing to invest in renewable and sustainable energy. Finding a solution should not be a partisan issue. Encouraging the development of renewable energy technologies will play a critical role in reducing greenhouse gas emissions and our Nation's reliance on fossil fuels. In Hawaii, we are mindful of preserving natural and cultural resources. We are also aware of the powerful potential of nature to provide sustainable sources of energy.

I am proud that we had bipartisan support for the Marine and Hydrokinetic Renewable Energy Promotion Act of 2007, which I introduced, and was later enacted into law as part of the Energy Independence and Security Act of 2007. This measure recognized that ocean and wave energy are viable sources of sustainable energy. We need to support marine renewable energy research and development of technologies to produce electric power from ocean waves. However, like many other tax credits for renewable energy, the incentives put in place to ensure robust investments will expire at the end of 2008. The Renewable Energy and Job Creation Act of 2008 would have extended these valuable credits.

By harnessing the Sun, wind, ocean, and geothermal power to generate electricity, Hawaii is trying to reduce our heavy reliance imported fuel and reduce our greenhouse gas emissions. The vast ocean, Sun, wind, and land are natural elements that we, as a nation, share and enjoy. We must do all that we can to encourage the development and production of renewable and sustainable energy technologies from these natural resources. Achieving our goals will only be possible if we approach the problem as responsible stewards of our environment. Together, we will make an impact.

I am committed to finding legislative solutions to ease the burden of increasing oil prices and to reduce greenhouse gases. As responsible stewards, we must do what we can to uphold the welfare of our environment and our Nation for the generations to come. An investment in the development and implementation of renewable energies is a significant part of the solution. I stand ready to work with others to enact legislation to address these concerns.

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

MAJOR SCOTT HAGERTY

Mr. INHOFE. Mr. President, I wish to pay tribute to a very special person, one of our fallen heroes, MAJ Scott Hagerty. I feel a very personal relationship with this man. As we all do when we hear of a tragic loss, we research and see what he was doing,

where he was. It is almost impossible to conceive of the idea that maybe I didn't even meet him personally because, in looking at where he was in Afghanistan and when he was there, where he was in Iraq and when he was there—I was there at the same time. Ironically, even in northern Uganda. Not many people even know where Uganda is, but in a minute I will share a few things that are going on there and what Scott Hagerty was doing.

Scott died on June 3, 2008. He gave his last full measure when an improvised explosive device detonated near his vehicle while he was on patrol in Zormat, Afghanistan. Scott was a member of the Army Reserve and was assigned to the 451st Civil Affairs Battalion, Pasadena, TX.

Born and raised in Oklahoma, Scott graduated from Stillwater High School in 1984. As a senior in high school, he joined the U.S. Army at the rank of a specialist. He earned a bachelor's degree in political science, pre-law, and international relations from Oklahoma State University—OSU—in 1993.

He received his commission through the ROTC program and then completed the Field Artillery Officer Basic Course at Fort Sill. After serving on active duty, he continued his service in the Army Reserve. He spent 11 years with the 291st Regiment in Oklahoma before transferring to the U.S. Army Civil Affairs and Psychological Operations Command, Airborne, in 2004.

Scott married his wife, Daphne, 12 years ago. They have two sons, Jonathan 10 years old and Samuel 21 months. Scott loved his family and enjoyed being a father. He spent his life helping others gain the same freedoms and experience the same joys that he had.

Scott was deployed for a 12 month tour in South Korea and then served in Iraq from October 2004 to August 2005. As a civil affairs officer, he worked with Iraqis and Iraqi civilian authorities in helping them rebuild their government and country.

Prior to his tour in Afghanistan, Scott spent a tour in Djibouti, Africa, to help promote stability and prevent conflict in the region. His mission included repairing wells in northern Uganda, where he and fellow soldiers restored more than 60 wells and provided 250,000 local residents with clean water. In Africa, he was also involved in providing suitable facilities for basic medical care for children.

This is the part I find very interesting and coincidental. Scott was involved in northern Uganda. In northern Uganda, there are some things that are going on that not many are aware of. There is the LRA, the Lord's Resistance Army. One individual—his name is Joseph Coney. Joseph Coney, for 30 years, has mutilated and tortured little kids, recruited them to be in the army as his boy soldiers—12, 13, 14 years old. If they refuse to do it, they make this individual go back and murder his own family, back in the villages. I have been there. I have been in the same villages, the same places where Scott was.

Scott didn't have to do this. This is something that was beyond the call of duty. It is heavy lifting. I saw a picture of him in an orphanage in northern Uganda. I have been to that same orphanage. There are not many of our troops who have done what Scott Hagerty has done. He wrote about his experience there saying:

I have always dreamed of being a soldier, even as a little boy, so I know I am doing the job that was destined for me.

He deployed to Afghanistan shortly after being assigned to the 451st Civil Affairs Battalion in February. His family said, ''Scott was very proud of his career in the Army, and we know he died doing what he loved . . . serving his country.''

Scott received numerous military honors, including two Meritorious Service Medals, six Army Achievement Medals, two National Defense Service Medals, Global War on Terrorism Expeditionary and Service Medals and a Korean Defense Service Medal.

I am saddened by the loss of my fellow Oklahoman. I am proud of his service, integrity, and commitment to our country. I read through some of the comments written in Scott's on-line Guest Book from people who knew him at different points in his life and I would like to share a couple with you:

I had the honor of serving with Maj Hagerty in Gardez, Afghanistan. He was a father figure to me. I have great respect for him. He is truly my hero and will be missed more then he knows. I know he is looking down and watching over us as we continue our mission. We love you Maj Hagerty and will never forget you.

The Highland Park family are mourning the loss of a wonderful parent at our school. Scott was not only a devoted soldier, but a devoted husband and father . . . Scott's presence will be missed at home and abroad. Thank you Scott! We are very proud of you! Highland Park Elementary School.

Another one: Growing up with Scott, I was impressed by his quiet strength. I always knew there would be great things in his future as we stumbled toward adulthood . . . Thank you for the sacrifice you have made for my family.

And lastly a comment left by his team that he worked with in Africa: Sincere condolences to the family of Maj Scott Hagerty from the present and third Civil Affairs team in northern Uganda. We only had e-mail contact with him, giving updates on how things were going here, as he was still interested—he was the first team leader here and broke a lot of ground. I am sure he stands guard over us all now.

Today I pay tribute to Scott, a man who exemplified integrity and courage and gave his life as a sacrifice for his family and our Nation.

I have to say this in the case of Scott: This is not goodbye, Scott. It is job well done. We love you, and we will see you later.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I would like to comment on the kindness of the Senator from Oklahoma. I think that so often we forget the sacrifice that our American people have made so we could bring some stability to Afghanistan and to Iraq.

Now, 2 weeks ago I attended a service actually on the front steps of the Ohio Capitol Building where we commemorated the lives of 23 individuals from the Lima Company that was extraordinarily hit in Iraq. Tears rolled out of my eyes and everyone else there as a mother of a man by the name of Hoffman talked about her son and the sacrifice that he made and why he made that sacrifice.

I think that too many Americans are not aware of the fact that we have lost over 4,000 people in Iraq and that 30,000 of them have returned, and half of them are going to be disabled. I think it underscores that we need to be very responsible in our future activity in Iraq so that the parents of those young men and women do not feel that their lives were lost in vain.

I am sure, Mr. President, you have mixed emotions, as I have, about where we should be going there. I heard Jim Dobbins today. Jim was at the State Department for many years. He was talking about our next moves in Iraq and how difficult it is because on one hand, we know that we have to move our troops out of there for the benefit of our volunteer Army. Because of the deployments, they are stretched, and they are not getting the re-ups that they need.

At the same time, we want to make sure we do not move too fast so we end up with a civil war there. So it is a dilemma. But the people who get lost in all of that are the folks who have lost their loved ones. And it grieves me that we have spent almost $650 billion on that war, and we have never asked the American people to participate.

The only ones who have participated are the families whose sons and daughters have come back in body bags, and that loss will be with them for the rest of their lives. So I think all of us ought to think about those families and pray for them and pray that those of us in responsible positions will be enlightened by the Holy Spirit to make the right decisions for them, their families, for our country, and for the world.

TRIBUTE TO SECOND BLUEGRASS CHAPTER HONOR FLIGHT

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to the second Bluegrass Chapter Honor Flight. I had the privilege of meeting 38 World War II veterans from the Commonwealth of Kentucky who arrived in our Nation's Capital yesterday morning to see the memorial on the National Mall dedicated to them.

Thanks to the national nonprofit organization, Honor Flight, which transports World War II veterans from anywhere in the country to see their memorial, and a group of dedicated volunteers, veterans from all over the state

are able to make this memorable trip, free of charge.

The World War II Memorial was completed in 2004 and is a fitting tribute to the men and women who put on their country's uniform to fight the greatest and most destructive war the world has ever seen. Anyone who has ever visited this special place will agree that its stateliness is nothing short of awe-inspiring much like the men and women for whom it was built and who are so deserving of their title as ''the Greatest Generation.''

On the memorial's field of gold stars, known as the Freedom Wall, the inscription reads ''Here We Mark the Price of Freedom.'' The veterans from my home State of Kentucky who visited today paid that price with their blood, sweat and tears; their families paid with sleepless nights and constant fear for the safety of their loved ones; and many of their fellow fighters paid with their lives.

We should remember the bravery of the men and women who served, and the World War II Memorial is a fitting tribute for all those who sacrificed in defense of our Nation and our way of life.

Mr. President, it is really a moving experience to be in the company of some of the men and women of the ''Greatest Generation,'' and I ask unanimous consent that the names of the World War II veterans from Kentucky who were here yesterday be printed in the RECORD.

There being no objection the names were ordered to be printed in the RECORD, as follows:

KENTUCKY WORLD WAR II VETERANS

Elmer Morgan, William Coffey, Curtis Lesmeister, Lewis Grahm, Morgan Bradford, Leslie Spillman, Ralph Holman, Richard Thompson, William Richmond, Frank Parks, Vaiden Cox, James Wells, Daniel Rateau, Kenneth Becker, Morris Alford, James Hartman, Richard Doty, Melvin Campbell, Sr., Salvador Miceli, Veachel Lile.

Alexander Fehr, Kenneth Fehr, Charles Nichter, George Johnides, Jarl Harris, J.B. Price, Bernard O'Bryan, Robert Emerson, Harold Mauck, Gordon Mauck, Kelvin Keath, Asa Elam, Harold Staton, Benjamin Rau, Robert Blakeman, Edward Wilson, Jean Pogue, John Pogue.

TRIBUTE TO FREDERICK M. DOWNEY

Mr. LIEBERMAN. Mr. President, I rise today to express my profound gratitude and heartfelt best wishes to Frederick M. Downey, a true friend and dedicated public servant who will be leaving my Senate office after serving 12 years as senior counselor and legislative assistant. Given all that we have been through together, Fred's departure is truly a bittersweet occasion. While I am excited for Fred as he pursues an exciting opportunity with the Aerospace Industry Association, I can't help but think what a great loss his leaving will be for me, my staff, and the people of Connecticut.

Fred came to my office having already amassed a long and distinguished record in public service and national security. A distinguished military graduate of the Virginia Military Institute, Fred served in the U.S. Army for 24 years, rising to the rank of colonel. In the Army, Fred held a variety of infantry, troop, and staff positions in the United States, Europe, the Middle East, and in Vietnam.

Between 1988 and 1991, Fred worked in the Office of the Deputy Chief of Staff for Operations and Plans in the Department of the Army, where he was responsible for advising senior Army leaders on national security policy and military strategy. He played a leading role in examining the post-Cold War strategic environment, formulating options used by Army leaders when developing a national security strategy and force structure to meet the needs of the new international system. Fred also played an integral role in developing the Army's strategy for Operation Desert Storm. Fred then served as assistant to the director of net assessments, before retiring from the Army in 1993 and joining TASC, Inc. At TASC, Fred provided analytical services to the U.S. Government and our allies.

Even with all Fred had already done for our country, his instinct for public service proved strong; and in 1996 he agreed to leave TASC and accept a position as my legislative assistant for defense and foreign affairs. Naturally, I was delighted to have someone with his background and expertise join my team.

Fred's tenure in the Senate has been one of remarkable distinction. For over a decade, while America's role in the world has undergone profound and sometimes tumultuous changes, I have consistently been able to rely on Fred to give me the highest level of counsel on critical military and foreign affairs issues. In addition to his almost encyclopedic knowledge of military matters, Fred quickly demonstrated that he possessed keen legislative and political instincts. As my designated representative to the Senate Armed Services Committee, Fred has been indispensable in my efforts to transform America's military so that is it better suited toward the national security needs of a post-Cold War world. With Fred's invaluable assistance, I was able to develop and pass legislation establishing the Quadrennial Defense Review and the National Defense Panel, which requires the Pentagon to regularly assess what it will require to keep America safe in the future, as well as legislation establishing the U.S. Joint Forces Command. Also, as part of the annual Defense authorization bill, Fred and I crafted a series of provisions to reform the policy, procurement, and research and development process at the Department of Defense.

Fred was just as focused and passionate in helping advance foreign policy legislation that was both tough on America's enemies and representative of our Nation's core values. With his strong guidance, I was able to enact a number of initiatives that promoted human rights and religious freedom abroad, increased American assistance to fight the spread of global HIV/AIDS, encouraged increased international cooperation and the expansion of the North Atlantic Treaty Organization, and authorized efforts to prevent genocide.

After the terrorist attacks of September 11, 2001, when America was awakened to the grave threat posed by radical Islamist terrorism, Fred was steadfast in his efforts to advance legislation giving the Federal Government the tools it needs to protect Americans from further attacks. Working with my talented staff on the Homeland Security and Governmental Affairs Committee, Fred played a vital role in producing legislation that implemented the recommendations of the National Commission on Terrorist Attacks Upon the United States. Fred also teamed up with the committee on the Intelligence Reform and Terrorism Prevention Act of 2004, which enacted the most sweeping reform of our Nation's intelligence community in over half a century, and on legislation creating the Department of Homeland Security.

Fred recognized early on that for the United States to ultimately succeed in the war on terror, it is not enough to just seek out and capture terrorists, but that we must also work to provide the people of the Middle East and the rest of the Islamic world an alternative to radical Islamism by promoting democracy and economic development. With this in mind, Fred toiled relentlessly to advance initiatives designed to expand America's diplomatic outreach to the Muslim world and to promote democracy, human rights, and the rule of law in the Middle East. He also guided to passage the Afghanistan Freedom Support Act, which committed the United States to aiding Afghanistan as it seeks to rebuild for the long term.

In 2005, when the Pentagon recommended that the Naval Submarine Base in Groton, CT, be closed, Fred worked tirelessly as a leader in an effort to keep it open. Once again, his advice was pivotal toward developing a successful strategy that demonstrated to the Base Closure and Realignment Commission that the unique synergy of submarine construction and operating talent in southeast Connecticut is critical to our national security. Connecticut truly owes a debt of gratitude to Fred for his perseverance and commitment to the well-being of our State.

Of course, I couldn't possibly discuss Fred's service in the Senate without mentioning all the times he and I have traveled the world together on official business. Whether it was our annual trip to the North Atlantic Treaty Organization summit in Brussels, or the numerous fact-finding trips taken to Iraq and Afghanistan, Fred was there to provide his thoughtful perspective.

Often these trips would keep Fred away from home during the holidays, an enormous sacrifice that I cannot begin to say how much I appreciate. Wherever we traveled, my visits to other parts of the world were always greatly enhanced knowing that Fred was at my side.

Fred is respected throughout the Senate for his outstanding work and breadth of knowledge. He has built a reputation with Senators and staff from both sides of the aisle for always being willing to take into account everyone's views and work together to reach a consensus. He is a true professional in the very best sense of the word.

I am deeply grateful to Fred's wife, Claudia, for her understanding of the marathon hours and taxing travel schedule that was so often demanded of Fred. Having been lucky enough to have gotten to know her and their two daughters, Dawn Harvey and Kelly Emery, I can only surmise that they served as an endless source of strength for him as he grappled with the tough issues facing the world today.

My entire Senate staff has been extremely fortunate to work with Fred, who was always willing to share his broad knowledge and counsel with his coworkers. When things would sometimes get hectic, Fred was a beacon of calm and stability; ready to impart the wisdom he had accumulated from his vast experience to help us all weather the storm. Many new legislative aides and fellows would find that Fred was someone they could approach whenever they needed assistance, and we have all been touched by his graciousness and sense of humor. He will always remain a treasured part of our office family, and the office will never be the same without him.

I am honored to have had Fred as a trusted advisor for all these years, and I am even prouder to call him my friend. While he will be missed immensely, my staff and I wish him happiness and health, knowing that he will be equally successful in his next endeavor. On behalf of myself, my staff, and the country, I sincerely thank Fred Downey for his many years of public service.

233RD BIRTHDAY OF THE UNITED STATES ARMY

Mr. HAGEL. Mr. President, I rise today to wish happy birthday to the oldest branch of our Armed Forces, the U.S. Army. Two hundred and thirty-three years ago, June 14, 1775, the Continental Congress approved the creation of a Continental Army—10 companies of riflemen, to defend American liberty. From the Revolutionary War to Iraq and Afghanistan, our men and women have served with bravery, selflessness and noble purpose.

Love of their country has inspired men and women to serve a cause greater than themselves. Regard for the principles our Nation was founded on motivates them to continue to fight and defend.

To say simply our Armed Forces have shaped history is an understatement. They have not only shaped history, they have defined America, and represented our nation's highest values . . . ''Duty, Honor, Country.''

Every generation of soldiers since the foundation of our country has protected our democracy and helped make the world more peaceful, secure and prosperous.

The sacrifices our soldiers have made in service to our country, and the price their families have paid are worthy of America's honor and respect. So as we celebrate the Army's 233rd birthday, we really celebrate our men and women in uniform who have given so much. Thank you.

In the Army's grandest tradition and as a proud Army veteran, I proclaim my annual Senate floor . . . ''HOOAH!''

THE MATTHEW SHEPARD ACT OF 2007

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

Last month, I came to the floor to speak about the death of Sean Kennedy of Greenville, SC. This young man was attacked outside a local bar and sustained fatal injuries. His attacker, Stephen Moller, had punched him in the face and left a message on a friend of the victim's cell phone, calling Sean a faggot and bragging that he had knocked him unconscious. Sean died 20 hours later.

Sean's mother, Elke Parker, watched as Moller pled guilty to manslaughter, for which the judge gave him a 5-year sentence. The sentence was then reduced to 3 years. For the mother of a son killed in a hate crime, this is not justice. Had the Matthew Shepard Act been signed into law before Sean's death, prosecutors would have been able to charge the defendant with a violent hate crime under the law. Additionally, the Federal Government would have been authorized to provide investigatory and prosecutorial assistance, which could have led to a sentence commensurate with the brutality of this attack.

After the trial, Elke told reporters that she would push for Federal hate crime legislation. ''It may not help Sean today, but I want it to help future victims that they can be assured that there is justice. If your son or daughter is different, you need to support them for who they really need to be,'' she said. I was honored to speak with her about this legislation last month and look forward to working with her as we push for its passage.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Matthew Shepard Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

150TH ANNIVERSARY OF THE MARAIS DES CYGNES MASSACRE

Mr. BROWNBACK. Mr. President, last month in Kansas, I was able to be present for the commemoration of an important, but little known, event in American history. 150 years ago, May 19, 1858, a little defile in Kansas near Mine Creek was the site of one of the incidents that led up to the Civil War; the massacre of free State settlers by proslavery men.

The Marais des Cygnes Massacre is considered the last significant act of violence in Bleeding Kansas before the final cataclysm of civil war engulfed the Nation. On May 19, 1858, 30 men led by Charles Hamilton, a southern proslavery leader, crossed into Kansas from Missouri. Once there, they captured 11 free State men, none of whom was armed and none of whom had engaged in violence. Many of them knew Hamilton and didn't suspect he meant to harm them. These prisoners were led into a defile, where Hamilton ordered them shot and fired the first bullet himself. Five men were killed.

Hamilton's gang went back to Missouri, and only one man was ever brought to justice. William Griffith of Bates County, MO, was arrested in the spring of 1863 and hanged on October 30 of that year.

The incident horrified the Nation, and inspired John Greenleaf Whittier to write a poem on the murder, ''Le Marais du Cygnes,'' which appeared in the September 1858 Atlantic Monthly. The incident and the poem strengthened the resolve of the antislavery cause around the Nation.

In 1941 the Kansas Legislature authorized acceptance of the massacre site, including Hadsall's house, as a gift to the State from the Pleasanton Post, Veterans of Foreign Wars. In 1961 it provided funds for the restoration of the building, and in 1963 the entire property was turned over to the Kansas State Historical Society for administration. A museum was established in the upper floor of the building in 1964. The Kansas Historical Society has done great work in administering the site since 1963. Just recently Riley Albert Hinds, a young man from Pleasanton, did some work for an Eagle Scout project that was very important for the restoration of this site, and contributed greatly to the existing historical research on Marais des Cygnes.

From 1854 to 1861 Kansas was the scene of a bitter struggle to determine whether the territory should enter the Union as a free or a slave State. We

paid greatly as a Nation for the ''original sin'' of slavery in terms of blood and treasure, and there is still much healing that needs to take place. Part of our greatness as a Nation is our ability to acknowledge both the good parts and the bad parts of our history, and to make amends for injustices of the past.

Keeping alive our historical memory is a key to understanding ourselves as a Nation and as people. Communicating the rich history of our Nation to every generation is of the utmost importance. Knowing and learning from our history is one of the keys to maintaining a healthy, democratic society.

HONORING MY CHILDREN ON FATHER'S DAY

Mr. CRAIG. Mr. President, though the origin of Father's Day is not clear, fathers throughout the United States are made to feel special by their children every year, on the third Sunday in June.

Sunday, June 15, marks my 24th year as Dad to Mike, Jay and Shae. And in recent years, their seven children have made me a doting granddad to boot, doubling the joy of our celebration.

Throughout these years, I have never taken a Father's Day remembrance for granted—perhaps because I adopted my children when I had the wisdom and maturity to appreciate the pure joy of having them in my life. I have treasured the handmade trinkets, the interesting ties and the simple melody of their voices greeting me on that Sunday morning every year, ''Happy Father's Day, Dad! We love you.''

Father's Day always has been a time of reflection for Suzanne and me—to look back fondly on our kids' achievements and to take pride in how they handled life's disappointments. I remember Shae's first date and her first breakup, Mike's first car and Jay's first soccer game.

But nothing affected me as emotionally as my children's love and loyalty during the dark days of last August.

When I was under siege by the media, by my political opponents and even by some I thought were my friends, it was my three children who surrendered their privacy and risked being tarred by those demanding my head to take on their Dad's critics.

They were relentless in correcting the record—in television interviews and in doggedly responding to newspaper reporters' endless questions. And when I appeared before the media to respond to unspeakable accusations, my kids stood with me, looking my accusers squarely in the eye. In the privacy of our home, when I would despair, they were there to lift up their Dad.

Someone once said, ''If there is anything better than to be loved, it is loving.''

No father in America is prouder of his children than I. So this Sunday, the luckiest Dad in Idaho won't be just waiting around for his annual Father's Day calls and visits. This Father's Day, Dad is honoring the three who chose me to be their father—Shae, Mike and Jay.

FLAG DAY

Mr. CRAIG. Mr. President, this Saturday, June 14, our Nation celebrates Flag Day. It was on this day 231 years ago that the Second Continental Congress officially adopted the red, white, and blue flag to serve as an icon for our newly formed Nation. Living and working in the United States, one may find it easy to overlook the prevalence of our flag—it stands atop buildings, in school yards, next to libraries, and even in our neighborhoods. President Woodrow Wilson, in recognition of the significance of our flag, set aside June 14 as a day to observe our flag and take pride in our Nation.

The first flag, commonly known as the ''Betsy Ross'' flag—given the name after the legend that she designed the flag—contained 13 stars and stripes to symbolize the 13 original colonies. As our Nation grew, so did the stars in the constellation, finally leaving us with the 50 stars that we all recognize today.

One of the many beautiful aspects of our flag is that it can mean different things to different folks and is even open to your own personal interpretation. For many, the flag represents freedom; for others, individual rights or justice. For some, it is a reminder of those who fought to protect all Americans' right to life, liberty, and the pursuit of happiness.

Our first President, George Washington, had this to say about the flag's symbolism: ''We take the stars from heaven, the red from our mother country, separate it by white in stripes, thus showing that we have separated from her.''

This year, we honor our flag the day before Father's Day. In light of this, I would especially like to pay tribute to all the fathers serving in our armed forces who will be unable to celebrate with their families this weekend. I ask that we keep these brave men—whose service ensures the freedom that our flag so gallantly symbolizes—in our hearts and prayers as we celebrate Flag Day.

In closing, let me read an excerpt from a poem that is familiar to many in our country, because it has been read at countless ceremonies where American citizens are gathered. It's entitled ''I am the Flag,'' and it was written by Howard Schnauber:

I am the flag of the United States of America.
My name is Old Glory.
I fly atop the world's tallest buildings.
I stand watch in America's halls of justice.
I fly majestically over institutions of learning.
I stand guard with power in the world.
Look up . . . and see me.
I stand for peace, honor, truth and justice.
I stand for freedom.
I am confident.
I am arrogant.
I am proud.

LOSS OF LIFE DURING IOWA TORNADO

Mr. NELSON of Nebraska. Mr. President, I rise today to express my heartfelt sympathies for the families of four young Boy Scouts who lost their lives, and 48 other who were injured, in a terrible storm and tornado which struck last night just across the border from Nebraska in my neighboring state of Iowa.

Josh Fennen, 13; Sam Thomsen, 13; and Ben Petrzilka, 14—all of Omaha, Nebraska—and Aaron Eilerts, 14, of Eagle Grove, IA, were on what should have been a fun-filled camping trip with their Boy Scouts of America troop in a beautiful and rugged area not far from Omaha when this terrible weather hit their campsite.

At this somber time, I would like to recognize the heroism of the Scouts who came to the aid of those injured yesterday. You have the admiration of our entire State; your heroism and courage are in the finest tradition of Scouting. As an Eagle Scout, my thoughts go out to the entire Boy Scouts of America organization—nowhere is the sense of brotherhood so deep as with this wonderful group. While it is a dark hour for the Scouts, the character, strength, and sense of duty of these brave young men will help carry them through this tragedy.

Midwesterners are accustomed to violent weather, but we will never be accustomed to the tragic loss of life it sometimes brings. My thoughts and prayers are with these young victims and their families.

ADDITIONAL STATEMENTS

2007 SLOAN AWARD WINNERS

• Mr. ALEXANDER. Mr. President, I congratulate the 2007 winners of the Alfred P. Sloan Award for Business Excellence in Workplace Flexibility, which recognizes companies that successfully have used flexibility to meet both business and employee goals.

As I did last year, I wish to draw attention to the Sloan Awards because I think these companies should be commended for their excellence in providing workplace flexibility practices which benefit both employers and employees. Achieving greater flexibility in the workplace—to maximize productivity while attracting the highest quality employees—is one of the key challenges facing American companies in the 21st century.

For 2007, businesses in the following 24 cities were eligible for recognition: Aurora, CO; Boise, ID; Brockton, MA; Chandler, AZ; Chattanooga, TN; Chicago, IL; Cincinnati, OH; Dallas, TX; Dayton, OH; Detroit, MI; Durham, NC; Houston, TX; Long Beach, CA; Long Island, NY; Melbourne-Palm Bay, FL;

Morris County, NJ; Providence, RI; Richmond, VA; Salt Lake City, UT; Savannah, GA; Seattle WA; Spokane, WA; Tampa, FL; Washington, DC; and Winona, MN.

The Chamber of Commerce in each city hosted an interactive business forum to share research on workplace flexibility as an important component of workplace effectiveness. In these same communities, businesses applied for—and the winners that I am about to name were selected for—the Sloan Awards through a process that considered employees' views in addition to employer practices.

In Aurora, CO, the winners are Arapahoe/Douglas Works!, Lee Hecht Harrison, and The Medical Center of Aurora.

In Boise, ID, the winners are American Geotechnics, Big Brothers Big Sisters of Southwest Idaho, Children's Home Society of Idaho, DJM Sales & Marketing Inc, Group One Real Estate, J-U-B Engineers, KPMG, The Leavitt Group of Boise, Prime Equity Mortgage Group, St. Luke's Regional Medical Center, and TitleOne Corporation.

In Brockton, MA, the winner is Old Colony Elderly Services.

In Chandler, AZ, the winners are A&S Realty Specialists, Abalos & Associates PLLC, AHM Mortgage, Arizona Spine and Joint Hospital, Cachet Homes, Chandler Chamber of Commerce, Chandler Connection, Chandler Unified School District, Clifton Gunderson LLP, Hacienda Builders, Henry & Horne LLP, Intel Corporation, Jewish News of Greater Phoenix, Johnson Bank, MDI, Microchip Technology Inc., Omega Legal Systems Inc., RIESTER, Spark, Technology Providers Inc., Today's Women's Health Specialists, US Airways, and Wist Office Products.

In Chattanooga, TN, the winners are Center for Community Career Education at The University of Tennessee at Chattanooga, Management Recruiters of Chattanooga, Reading Education for Adult Development (READ) of Chattanooga, and Unum.

In Chicago, IL, the winners are Ernst & Young, First Midwest Bank, KPMG LLP, Lee Hecht Harrison, and Perspectives ltd.

In Cincinnati, OH, the winners are Barnes Dennig, CSC Consulting Group, Deloitte & Touche, FSCreations, and Physical Therapy Options.

In Dallas, TX, the winners are Accenture, BDO Seidman LLP, The Beck Group, Community Council of Greater Dallas, Deloitte, Direct Energy, Kaye/Bassman International, Lee Hecht Harrison, Nortel Networks, and State Farm Insurance.

In Detroit, MI, the winners are Albert Kahn Associates Inc., Amerisure Mutual Insurance Company, Brogan & Partners Convergence Marketing, Detroit Regional Chamber, Humantech, and Menlo Innovations.

In Durham, NC, the winners are Durham's Partnership for Children, Greenfire Development, Horvath Associates, P.A., and VirtualOfficeAmerica.

In Houston, TX, the winners are Access Sciences Corporation, Binkley & Barfield Inc., Continental Airlines, Deloitte, Direct Energy, El Paso Corporation, Fullbright & Jaworski LLP, Klotz Associates Inc., KPMG LLP, PGAL, PKF Texas, and Simdesk Technologies Inc.

In Long Beach, CA, the winners are KPMG and PeacePartners Inc.

In Long Island, NY, the winners are CMP Technology, Girl Scouts of Nassau County, and KPMG.

In Melbourne-Palm Bay, FL, the winners are Melbourne-Palm Bay Area Chamber of Commerce and Wesche Jewelers.

In Morris County, NJ, the winner is Solix, Inc.

In Providence, RI, the winners are Embolden Design Inc., Family Service of Rhode Island, KPMG, LGC&D P.C., Lighthouse Computer Services, Inc., Rhode Island Housing, and Rhode Island Legal Service, Inc.

In Richmond, VA, the winners are Bon Secours Richmond Health System, Capital One Financial, Chesterfield County Government, and VCU Health System.

In Salt Lake City, UT, the winners are Cooper Roberts, Enterprise Rent-A-Car Company, Intermountain Healthcare, Jones Waldo Holbrook & McDonough P.C., McKinnon-Mulherin Inc., Prince, Perelson & Associates, Redmond Minerals, Inc., and Select Health.

In Savannah, GA, the winners are Lazard Dana LLP and Wachovia.

In Seattle, WA, the winners are Blue Gecko, Cascadia Consulting Group, Child Care Resources, Consejo Counseling and Referral Services, Friends of the Children, Leadership Institute of Seattle, MarketFitz Inc., NRG::Seattle, PACE Staffing, Washington Health Foundation, WithinReach, Worktank, and URS.

In Spokane, WA, the winner is Gonzaga University.

In Tampa, FL, the winners are Argosy University Tampa, CIBERsites, Citigroup, Greenacre Properties Inc., Kerkering, Barberio & Co. P.A., Residential Drywall Inc., Self Reliance, Inc., Success 4 Kids & Families, and TEKsystems.

In Washington, DC, the winners are Capital One Financial, Discovery Communications Inc., and MorganFranklin Corp.

In Winona, MN, the winner is Wells Fargo Bank.

The Sloan Awards are presented by the When Work Works initiative, which is a project of the Families and Work Institute, in partnership with the Institute for a Competitive Workforce, an affiliate of the U.S. Chamber of Commerce and the Twiga Foundation. The When Work Works initiative is sponsored by the Alfred P. Sloan Foundation.

Building on the success of the first 3 years, the next phase of the When Work Works initiative will extend the number of participating communities to 30 in 2008 to include: Atlanta, GA; Birmingham, AL; Charleston, SC; Dayton, OH; Lexington, KY; Louisville, KY; and San Francisco, CA. Again, I congratulate the 2007 winners of the Sloan Awards and look forward to the continuing expansion of this worthwhile initiative.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mrs. Neiman, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Rules and Administration. (The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:55 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5749. An act to provide for a program of emergency unemployment compensation.

H.R. 6003. An act to reauthorize Amtrak, and for other purposes.

ENROLLED BILLS SIGNED

At 5:27 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1245. An act to reform mutual aid agreements for the National Capital Region.

S. 2516. An act to assist members of the Armed Forces in obtaining United States citizenship, and for other purposes.

H.R. 3179. An act to amend title 40, United States Code, to authorize the use of Federal supply schedules for the acquisition of law enforcement, security, and certain other related items by State and local governments

H.R. 3913. An act to amend the International Center Act to authorize the lease or sublease of certain property described in such Act to an entity other than a foreign government or international organization if certain conditions are met.

H.R. 6124. An act to provide for the continuation of agricultural and other programs of the Department of Agriculture through fiscal year 2012, and for other purposes.

The enrolled bill (H.R. 6124) was subsequently signed by the Acting President pro tempore (Mr. TESTER).

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 3118. A bill to amend titles XVIII and XIX of the Social Security Act to preserve beneficiary access to care by preventing a reduction in the Medicare physician fee schedule, to improve the quality of care by advancing value based purchasing, electronic

health records, and electronic prescribing, and to maintain and improve access to care in rural areas, and for other purposes.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6003. An act to reauthorize Amtrak, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 5749. An act to provide for a program of emergency unemployment compensation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

H.R. 3480. To direct the United States Sentencing Commission to assure appropriate punishment enhancements for those involved in receiving stolen property where that property consists of grave markers of veterans, and for other purposes.

By Mr. LEAHY, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 576. A resolution designating August 2008 as ''Digital Television Transition Awareness Month''.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

Helene N. White, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

Raymond M. Kethledge, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

Stephen Joseph Murphy III, of Michigan, to be United States District Judge for the Eastern District of Michigan.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. COLLINS:

S. 3119. A bill to stimulate the economy by encouraging energy efficiency, infrastructure and workforce investment, and homeownership retention, and by amending the Internal Revenue Code of 1986 to provide certain business tax relief and incentives, and for other purposes; to the Committee on Finance.

By Mr. SCHUMER (for himself and Mrs. FEINSTEIN):

S. 3120. A bill to amend the Internal Revenue Code of 1986 to increase the income limitations for qualified performing artists eligible for an above-the-line deduction for performance expenses; to the Committee on Finance.

By Mr. NELSON of Nebraska (for himself, Mr. ROBERTS, Mr. CRAPO, Mr. BAYH, and Mr. LUGAR):

S. 3121. A bill to amend the Internal Revenue Code of 1986 to allow the Secretary of the Treasury to waive the penalties for failure to disclose reportable transactions, and for other purposes; to the Committee on Finance.

By Ms. CANTWELL (for herself and Ms. SNOWE):

S. 3122. A bill to amend the Commodity Exchange Act to provide for the regulation of oil commodities markets, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SCHUMER (for himself, Mrs. MCCASKILL, and Mr. OBAMA):

S. 3123. A bill to require lobbyists who represent foreign politicians or political parties and foreign entities to register under Foreign Agents Registration Act of 1938; to the Committee on Foreign Relations.

By Mr. SMITH (for himself and Mr. WYDEN):

S. 3124. A bill to require the Secretary of Labor to establish a program to provide for workforce training and education, at community colleges, in the fields of renewable energy and efficiency, green technology, and sustainable environmental practices; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BAUCUS:

S. 3125. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; to the Committee on Finance.

By Mr. COLEMAN:

S. 3126. A bill to provide for the development of certain traditional and alternative energy resources, and for other purposes; to the Committee on Finance.

By Mr. BURR (for himself and Mr. KENNEDY):

S. 3127. A bill to reauthorize the Select Agent Program by amending the Public Health Service Act and the Agricultural Bioterrorism Protection Act of 2002 and to improve oversight of high containment laboratories; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KYL:

S. 3128. A bill to direct the Secretary of the Interior to provide a loan to the White Mountain Apache Tribe for use in planning, engineering, and designing a certain water system project; to the Committee on Indian Affairs.

By Mr. LEVIN (for himself, Mrs. FEINSTEIN, Mr. DURBIN, Mr. DORGAN, and Mr. BINGAMAN):

S. 3129. A bill to amend the Commodity Exchange Act to prevent price manipulation and excessive speculation and to increase transparency with respect to energy trading on foreign exchanges conducted within the United States; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURBIN (for himself, Mr. REID, Mr. LEVIN, Mr. BINGAMAN, Mr. DORGAN, Mrs. FEINSTEIN, Ms. KLOBUCHAR, Mr. MENENDEZ, Mr. BROWN, Mr. CASEY, Mr. KERRY, Mr. LEAHY, Mrs. MURRAY, Ms. MIKULSKI, Mr. OBAMA, and Mr. REED):

S. 3130. A bill to provide energy price relief by authorizing greater resources and authority for the Commodity Futures Trading Commission, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mrs. FEINSTEIN (for herself and Mr. STEVENS):

S. 3131. A bill to amend the Commodity Exchange Act to ensure the application of speculation limits to speculators in energy markets, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BAUCUS:

S. 3132. A bill to amend the Internal Revenue Code of 1986 to allow a credit for the capture and sequestration of carbon dioxide from an industrial source; to the Committee on Finance.

By Mr. DODD (for himself, Mr. DURBIN, and Mr. MENENDEZ):

S. 3133. A bill to direct the Secretary of the Interior to establish an annual production incentive fee with respect to Federal onshore and offshore land that is subject to a lease for production of oil or natural gas under which production is not occurring, to authorize use of the fee for energy efficiency and renewable energy projects, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. NELSON of Florida:

S. 3134. A bill to amend the Commodity Exchange Act to require energy commodities to be traded only on regulated markets, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. NELSON of Florida:

S. 3135. A bill to amend the Outer Continental Shelf Lands Act to provide for the establishment of a production incentive fee for nonproducing leases; to the Committee on Energy and Natural Resources.

By Mr. VITTER:

S.J. Res. 40. A joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act; to the Committee on the Judiciary.

By Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. BIDEN, Mr. ALLARD, Mr. BENNETT, Mr. BUNNING, Mr. BURR, Ms. CANTWELL, Mrs. CLINTON, Mr. COLEMAN, Mrs. DOLE, Mr. DURBIN, Mr. ENSIGN, Mr. FEINGOLD, Mr. ISAKSON, Mr. LEAHY, Mr. MARTINEZ, Mr. MENENDEZ, Ms. MURKOWSKI, Mr. SMITH, Ms. SNOWE, Mr. SUNUNU, Mr. WHITEHOUSE, Mr. WYDEN, Mr. BINGAMAN, and Mr. BROWN):

S.J. Res. 41. A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ALEXANDER (for himself, Mr. CORKER, Mr. COCHRAN, and Mr. WICKER):

S. Res. 592. A resolution commending the Tennessee Valley Authority on its 75th anniversary; considered and agreed to.

By Mr. LEVIN (for himself and Ms. STABENOW):

S. Res. 593. A resolution honoring the Detroit Red Wings on winning the 2008 National Hockey League Stanley Cup Championship; considered and agreed to.

By Mr. BROWN:

S. Res. 594. A resolution designating September 2008 as ''Tay-Sachs Awareness Month''; to the Committee on the Judiciary.

By Mr. MARTINEZ (for himself, Mr. BURR, Mr. WICKER, Mr. INHOFE, Mr. SUNUNU, Mr. NELSON of Florida, Mr. BAYH, and Mr. PRYOR):

S. Con. Res. 90. A concurrent resolution honoring the members of the United States Air Force who were killed in the June 25, 1996, terrorist bombing of the Khobar Towers United States military housing compound near Dhahran, Saudi Arabia; to the Committee on Armed Services.

ADDITIONAL COSPONSORS

S. 186

At the request of Mr. SPECTER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 186, a bill to provide appropriate protection to attorney-client privileged communications and attorney work product.

S. 335

At the request of Mr. DORGAN, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 335, a bill to prohibit the Internal Revenue Service from using private debt collection companies, and for other purposes.

S. 879

At the request of Mr. KOHL, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 879, a bill to amend the Sherman Act to make oil-producing and exporting cartels illegal.

S. 989

At the request of Mrs. LINCOLN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 989, a bill to amend title XVI of the Social Security Act to clarify that the values of certain funeral and burial arrangements are not to be considered available resources under the supplemental security income program.

S. 1468

At the request of Ms. MIKULSKI, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1468, a bill to amend title 38, United States Code, to increase burial benefits for veterans, and for other purposes.

S. 1588

At the request of Mr. COLEMAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1588, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

S. 1743

At the request of Mr. HATCH, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1743, a bill to amend the Internal Revenue Code of 1986 to repeal the dollar limitation on contributions to funeral trusts.

S. 1954

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 1954, a bill to amend title XVIII of the Social Security Act to improve access to pharmacies under part D.

S. 1956

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1956, a bill to amend part E of title IV of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas, and for other purposes.

S. 2042

At the request of Ms. STABENOW, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2042, a bill to authorize the Secretary of Health and Human Services to conduct activities to rapidly advance treatments for spinal muscular atrophy, neuromuscular disease, and other pediatric diseases, and for other purposes.

S. 2209

At the request of Mr. HATCH, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2209, a bill to amend the Internal Revenue Code of 1986 to provide incentives to improve America's research competitiveness, and for other purposes.

S. 2369

At the request of Mr. BAUCUS, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2369, a bill to amend title 35, United States Code, to provide that certain tax planning inventions are not patentable, and for other purposes.

S. 2372

At the request of Mr. SMITH, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 2372, a bill to amend the Harmonized Tariff Schedule of the United States to modify the tariffs on certain footwear.

S. 2433

At the request of Mrs. BOXER, her name was added as a cosponsor of S. 2433, a bill to require the President to develop and implement a comprehensive strategy to further the United States foreign policy objective of promoting the reduction of global poverty, the elimination of extreme global poverty, and the achievement of the Millennium Development Goal of reducing by one-half the proportion of people worldwide, between 1990 and 2015, who live on less than $1 per day.

S. 2506

At the request of Ms. SNOWE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2506, a bill to amend the Energy Policy and Conservation Act to modify a provision relating to the Northeast Home Heating Oil Reserve Account.

S. 2619

At the request of Mr. COBURN, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2619, a bill to protect innocent Americans from violent crime in national parks.

S. 2652

At the request of Ms. LANDRIEU, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2652, a bill to authorize the Secretary of Defense to make a grant to the National World War II Museum Foundation for facilities and programs of America's National World War II Museum.

S. 2666

At the request of Ms. CANTWELL, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 2666, a bill to amend the Internal Revenue Code of 1986 to encourage investment in affordable housing, and for other purposes.

S. 2715

At the request of Mr. INHOFE, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of S. 2715, a bill to amend title 4, United States Code, to declare English as the national language of the Government of the United States, and for other purposes.

S. 2766

At the request of Mr. MARTINEZ, his name was added as a cosponsor of S. 2766, a bill to amend the Federal Water Pollution Control Act to address certain discharges incidental to the normal operation of a recreational vessel.

At the request of Mr. NELSON of Florida, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2766, supra.

S. 2883

At the request of Mr. ROCKEFELLER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2883, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the establishment of Mother's Day.

S. 2932

At the request of Mrs. MURRAY, the names of the Senator from Connecticut (Mr. DODD) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 2932, a bill to amend the Public Health Service Act to reauthorize the poison center national toll-free number, national media campaign, and grant program to provide assistance for poison prevention, sustain the funding of poison centers, and enhance the public health of people of the United States.

S. 2942

At the request of Mr. CARDIN, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 2942, a bill to authorize funding for the National Advocacy Center.

S. 3008

At the request of Mr. BOND, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 3008, a bill to improve and enhance the mental health care benefits available to members of the Armed Forces and veterans, to enhance counseling and other benefits available to survivors of members of the Armed Forces and veterans, and for other purposes.

S. 3070

At the request of Mr. SESSIONS, the name of the Senator from Maine (Ms.

COLLINS) was added as a cosponsor of S. 3070, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centennial of the Boy Scouts of America, and for other purposes.

S. 3084

At the request of Mrs. BOXER, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 3084, a bill to amend the Immigration and Nationality Act to authorize certain aliens who have earned a master's or higher degree from a United States institution of higher education in a field of science, technology, engineering, or mathematics to be admitted for permanent residence and for other purposes.

S. 3098

At the request of Mr. ENZI, his name was added as a cosponsor of S. 3098, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

S. 3118

At the request of Mr. GRASSLEY, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Alaska (Ms. MURKOWSKI) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 3118, a bill to amend titles XVIII and XIX of the Social Security Act to preserve beneficiary access to care by preventing a reduction in the Medicare physician fee schedule, to improve the quality of care by advancing value based purchasing, electronic health records, and electronic prescribing, and to maintain and improve access to care in rural areas, and for other purposes.

S. CON. RES. 82

At the request of Mrs. LINCOLN, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Wyoming (Mr. BARRASSO) were added as cosponsors of S. Con. Res. 82, a concurrent resolution supporting the Local Radio Freedom Act.

S. CON. RES. 84

At the request of Mrs. BOXER, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. Con. Res. 84, a concurrent resolution honoring the memory of Robert Mondavi.

S. RES. 580

At the request of Mr. BAYH, the names of the Senator from Pennsylvania (Mr. CASEY), the Senator from Idaho (Mr. CRAPO), the Senator from Maine (Ms. SNOWE) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. Res. 580, a resolution expressing the sense of the Senate on preventing Iran from acquiring a nuclear weapons capability.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS:

S. 3119. A bill to stimulate the economy by encouraging energy efficiency, infrastructure and workforce investment, and homeownership retention, and by amending the Internal Revenue Code of 1986 to provide certain business tax relief and incentives, and for other purposes; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise today to introduce the Economic Recovery Act of 2008. I think it is evident our economy is struggling to overcome the twin effects of record-high energy prices and a steep downturn in the housing market.

Earlier this year, this Congress acted to provide rebates to taxpayers to help them cope with the effects of the downturn in the economy. The hope was also that the impact of these rebate checks would be to stimulate the economy.

It is evident much more needs to be done, so the legislation I am introducing today is aimed at reinvigorating our economy. It is my proposal for a second economic stimulus package.

Over the course of the past several years, we have seen the price of oil climb by more than 400 percent, from about $30 per barrel in 2003, to more than $133 per barrel this morning. This escalation in energy costs threatens to plunge our economy into a recession, and it is imposing a tremendous hardship on middle-income and low-income families, on our truckdrivers, our farmers, our fishermen, our schools, virtually everyone.

Big factories and mills, as well as small businesses, have also been harmed by high energy prices. In fact, a week ago we learned a mill in Millinocket, ME, is going to be forced to shut down because it can no longer afford the oil that is essential to the operations of that paper mill.

We are working with Governor Baldacci to try to find alternatives. But it is a prime example of the tremendously harmful impact high energy prices are having on the economy of our State and indeed States throughout the Nation.

Gasoline is already topping $4 a gallon 2 weeks into the summer driving season. Maine families fear the cost of staying warm next winter because home heating oil prices have reached record highs.

At the same time, the cost of diesel fuel is pushing some of America's independent truckers to the brink of bankruptcy. Consider this astonishing fact. In 1999, a Maine truck driver could go from Augusta, ME, all the way to Albuquerque, NM, on $500 worth of diesel. Today, $500 worth of diesel will not get that truck driver to Altoona, PA. What a difference a few years makes.

Of course, with diesel prices continuing to increase, the problem is only getting worse. Meanwhile, weaknesses in the housing market are making it impossible for millions of Americans to get the financing they need to stay in their homes when their adjustable rate mortgages reset. Many of these families are being forced into foreclosure, leaving behind vacant properties and creating a ripple effect that is pulling down home values even further. This problem hurts communities across the Nation, and it requires an effective Federal response.

The legislation I am introducing today would provide much-needed help to Americans who are struggling with high energy costs and the weak housing market. Let me outline the provisions of the economic stimulus package I am proposing.

First, the Economic Recovery Act proposes a series of initiatives to promote increased energy efficiency that would help consumers save money on their energy bills, and help advance the goal of energy independence for our Nation.

Second, the bill provides relief from truck weight regulations that are injuring truckers in the State of Maine.

Third, it proposes a new program to finance transportation infrastructure that is based on the model of the Build American Bonds Bill.

Fourth, it would increase funding under the Workforce Investment Act so we can help displaced and unemployed or underemployed workers.

Fifth, it proposes tax incentives designed to help America's small businesses.

And, sixth, it would help to restore stability in the housing market by expanding the FHA Secure Program, which would help homeowners refinance mortgages that are in danger of foreclosure.

We have focused a lot on the housing problems and the turmoil in the housing and financial markets. Indeed, that is an important factor in the decline of our economy. As I have indicated, I think more needs to be done. But I am convinced high energy prices are an even greater cause of the economic downturn.

We must act to protect ourselves from rapid increases in oil prices and in the long term achieve energy independence. One way to help achieve both those goals is to encourage greater efficiency. My bill would double the funding for the Department of Energy's Weatherization Program, reaching $1.4 billion by the year 2010.

The bill would also provide $112 million each year for the valuable Energy Star Program, which helps consumers choose energy-efficient appliances, and would extend the renewable electricity tax credit through 2011 and the residential investment tax credit for solar and energy-efficient buildings through 2012.

My bill also includes a $500 credit to consumers who replace their old wood-burning stove with a new, cleaner-burning model using wood or wood pellets. This complements a proposal I introduced in February.

We must take action to address the impact rising diesel prices are having on the trucking industry, which is struggling. The rapid increase in the price of diesel is making it more difficult for our Nation's truckers to stay on the road.

It is also increasing the cost of delivering goods that communities throughout our country rely on. We can help trucks to operate more efficiently if we ease Federal trucking regulations that prohibit trucks that carry more than 80,000 pounds from traveling on the Federal interstate system.

My bill includes a provision that would create a 2-year pilot project that would permit trucks carrying up to 100,000 pounds, which is the weight level that is permitted on Maine's highways, to travel on the Interstate Highway system when diesel prices are at or above $3.50 a gallon. The savings on fuel consumption will benefit the trucking industry, the consumer, and our Nation at a time when we are looking for ways to decrease our dependency on foreign oil.

Let me tell you, the current system simply makes no sense at all. In Maine, the trucks that have 100,000 pounds of cargo are forced to leave the Interstate in Augusta, ME, a road that is built to accommodate the heaviest trucks, and instead are forced to go on secondary roads through towns and villages, stopping at railroad crossings. That wastes fuel, and is less safe than keeping them on the Interstate. The trip takes much longer because they are on secondary and slower roads that often are not the most direct routes to the destination. So that simply makes no sense at all.

Any proposal to stimulate the economy should help to fund transportation infrastructure projects. They are a proven means of fostering economic growth and are a lasting investment; an investment we need.

This past winter has been so difficult and so hard on the roads in Maine. I do not think I have ever seen so many frost heaves and so much wear and tear that the very difficult cold and snowy winter has had on our roads and highways as I have seen this spring in Maine. The legislation I have introduced calls for a $50 billion investment through new transportation bonds for roads, bridges, transit, rail, and waterways.

Now, I wish to give credit where credit is due. This proposal which I put into the economic stimulus package was first introduced by Senator WYDEN. I was very pleased to be a cosponsor of his bill. I have included our proposal as part of this broader package. Not only will this funding serve as the catalyst for thousands of good jobs today, we all know construction jobs are good jobs, but it also will improve our transportation infrastructure, which is critical to economic development over the long term.

This is an investment that makes sense. Many of these transportation projects are ready to go. They only need the funding. We must also act to provide assistance to those who have lost their jobs in this economic downturn. Now, that means extending unemployment compensation benefits. I hope we are going to do that soon. But in addition, we need to invest in our workers.

In the last 4 months, we have seen 340,000 jobs lost across the country. Today, we have more than 1.6 million additional unemployed workers, compared to 2001; 800,000 more than a year ago. The national unemployment rate has jumped to 5.5 percent. In my home State, 33,600 Mainers are looking for work.

In view of this increase in unemployment, it makes no sense whatsoever that the President's budget actually proposes another cut in the Workforce Investment Act. In fact, overall, the President's budget would cut $1.5 billion from the Department of Labor's workforce programs.

We must invest in America's workforce. Yet since fiscal year 2001, funding for the Workforce Investment Act programs has been reduced by nearly $1.7 billion in real terms. My bill would provide $1 billion in additional Workforce Investment Act funding that would enable us to train nearly 300,000 additional workers.

The bill would also increase funding for the Dislocated Workers program and for Youth and Adult training programs. Support for job training, investing in our workers is critical, but it is also important that we provide relief to the job creators in our economy, and that is our small businesses. The fact is, small businesses create 80 percent of the net new jobs in America. During economic downturns, however, they struggle with cash flow and they must forgo investments they need to grow and remain competitive. That is why I am proposing some tax incentives to help small businesses.

First, we should make the Section 179 expensing limit for small companies permanent so they can count on it. Second, we should renew a provision of tax law that allows restaurant owners to depreciate their equipment more quickly, over 15 years.

Finally, we must take action to steady the housing market. More than 50 million Americans hold mortgages at present and, fortunately, most of them are current with their payments. But 7 million of these mortgages are so-called subprime loans, and most of them are adjustable rate mortgages that reset to higher, often unaffordable rates after only 2 or 3 years of very low introductory rates. What we are finding is a lot of first-time homeowners simply did not understand the risk they were taking with subprime loans. As a result, approximately 1.3 million of these 7 million subprime mortgages are delinquent and could soon be in foreclosure. This number is expected to rise as more mortgages reach the reset date.

I am not interested in bailing out speculators, people who took a gamble that housing prices were going to increase. What I am talking about are homeowners who were peddled an unsuitable mortgage product. We need to help them. Foreclosures inflict losses all around—on the families who lose their homes; on the neighborhoods where values fall as empty houses proliferate; on borrowers who face tighter requirements and higher costs, as perceptions of lending risk increase; and on those who work in the construction or real estate industry, dependent on a strong housing market.

One source of help—and this is what I am proposing in my bill—would be to bolster the FHASecure program administered by the Federal Housing Administration. This program allows eligible homeowners to avoid foreclosure by assisting them with refinancing so they can afford to make their mortgage payments. My bill would expand this program to make it easier for lenders to accept voluntary write-downs of distressed mortgages and allow borrowers whose incomes are not sufficient to meet the terms of their existing mortgages to refinance their homes on terms they could afford. My bill also grants the FHA expanded authority to adjust insurance premiums, depending on the individual borrower's risk profile, to ensure the solvency of the FHA insurance fund. These provisions could help FHA reach hundreds of thousands of additional homeowners by the end of the year, and to do so without taxpayer subsidies.

The legislation I am introducing today includes comprehensive proposals that, taken together, would go a long way toward addressing the two factors truly harming our economy—high energy prices and a weakening housing market. I urge my colleagues to work together in a bipartisan way, to look at the ideas that I and others have proposed so we can work together on a second stimulus package to address these concerns and to help restore and strengthen our Nation's economy.

By Mr. BAUCUS:

S. 3125. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, George Bernard Shaw once said: ''If all economists were laid end to end, they would not reach a conclusion.''

Sometimes I feel the same about legislation to extend expiring tax provisions. Sometimes it feels as though that process never reaches a conclusion. Regrettably, Tuesday, the Senate failed to invoke cloture on the motion to proceed to the House-passed renewable energy and tax extenders bill.

Today, we must begin anew the march to a conclusion for the tax extenders package.

Next week, the Senate will face a choice. We'll vote again on getting to the tax extenders bill. We'll vote on allowing the Senate to get to the substitute amendment, the text of which I introduce today. I think that it's a pretty easy choice.

We need to decide whether we will develop new jobs and new medications.

Or, we can continue to allow hedge fund managers to defer, without limitation, their compensation for investing other people's money.

The choice is easy. We must pass this package of expiring provisions. We must reach a conclusion.

Last month, the House passed its renewable energy and tax extenders package, by a vote of 263 to 160. It came over to the Senate last week. My Colleagues on the other side of the aisle objected to moving to the House bill, for which I was prepared to offer a substitute amendment.

Today, I am introducing that substitute amendment as a stand-alone bill. This extender package is fully paid-for. These offsets are fiscally responsible. And these revenue-raising provisions are also sound tax policy.

The first revenue-raising provision is an extension of the effective date of the worldwide allocation of interest. The bill would delay application of the new rule.

This section of the code is scheduled to take effect in 2009.

Many of the companies that will benefit from this provision told me that they would rather have business extenders, including R&D, active financing, and CFC look-through. They prefer those important extenders to a 2009 application of the world wide allocation of interest.

These companies want a conclusion. And, they realize that to get a conclusion, they, along with Congress, must be fiscally responsible and pay for these provisions.

This provision allows Congress to be fiscally responsible and to pay for the priorities of the business community.

The second revenue-raising provision addresses offshore deferred compensation. This provision prevents hedge fund managers from deferring income. This is not an increase in tax on hedge fund managers. Rather, it is a change in the timing of when they have to pay their income tax.

We need to make decisions about our priorities. Is the ability of hedge fund managers to defer taxation of their compensation more important than spurring research and development?

This bill has a solid energy-tax package. It has about $17 billion in incentives for alternative energy, efficiency, and clean coal. This package is important for our environment and energy security. And it's important to facilitate the transition to a carbon-controlled economy.

I have been working to get the Congress to pass a good energy-tax package for the better part of a year. At the beginning of last year, the Finance Committee conducted several hearings. Last June, the Committee marked up a bill to bolster investment in clean energy, efficiency, and clean coal. Our bill—a roughly $30 billion package—passed the Finance Committee with a 15-to-5 vote.

The bill included a 5-year extension of the credit for production of renewable electricity. That credit enjoys strong bipartisan support.

It included 8-year extensions of credits for solar power. Solar power still needs significant subsidies to compete with fossil-based energy.

It included $4 billion in new funds for clean coal tax credits. These credits are needed to demonstrate that coal—which accounts for half of this Nation's electricity—can be burned cleanly.

The bill included a new consumer credit for plug-in hybrids. Already prototypes of plug-in hybrids can go a hundred miles on a gallon of gas.

The bill included a new credit for cellulosic ethanol. Some experts predict that cellulosic ethanol will become the fuel of the future.

Last June's Finance Committee package was largely financed by reducing tax benefits for oil and gas companies. We proposed repealing the manufacturing deduction for oil and gas firms. That raised about $9.4 billion for the package.

We proposed a tax on production in the Gulf of Mexico, with credit for the tax provided to companies paying royalties on that production. This raised more than $10 billion.

We also proposed tightening the rules on tax credits received by oil and gas companies that pay taxes to overseas jurisdictions. This proposal raised about $3.2 billion.

Taken together, these tax changes would have financed about two-thirds of the roughly $30 billion energy-tax package. We argued that the oil and gas offsets were justified, in part because of record-high oil prices. Recall that in 2005, President Bush said, ''With $55 (a barrel) oil we don't need incentives to oil and gas companies to explore.''

When the Finance Committee passed this energy-tax bill, oil traded at $69 a barrel.

After moving the bill through the Finance Committee, Senator GRASSLEY and I offered that measure on the Senate floor. We offered it as an amendment to the energy policy bill.

But our amendment got 57 votes on the floor, 3 shy of the 60 votes that we needed to break a filibuster.

The objections, almost entirely from the other side, were that the bill would increase energy prices. They argued that our bill unreasonably targeted the oil and gas industry. They argued that the package was simply too big.

So we went back to the drawing board. In negotiations with the House, we cut the size of the energy package by about a third. We dropped the $10 billion tax on Gulf production. We retained repeal of the manufacturing deduction for large oil and gas firms, and the provision to tighten loopholes on foreign tax credits for oil and gas companies. And we also included nearly $7 billion in offsets from President Bush's own budget proposal.

That's right. About one-third of the package that came to the Senate floor in December was offset by items taken directly from proposals offered by President Bush in his 2008 budget.

Even though we cut the package by about a third, the bill still maintained meaningful support for alternative energy and efficiency. It included extension of the renewable energy production credit. It included long-term extensions of credits for solar power. It included $2 billion for clean-coal projects. And it included a new consumer incentive for plug-in hybrid cars.

It was not as ambitious as the June 2007 Finance Committee bill. But the compromise product that came to the Senate floor in December was a very good package.

Nonetheless, the President issued a veto threat on the bill. And 40 Senators followed his lead. On December 12, 2007, the compromise package failed in the Senate by a vote of 59 to 40, just one shy of 60 needed to break yet another filibuster.

Faced with the choice of maintaining tax breaks for oil and gas companies and investing in a fledgling alternative energy industry, the Senate minority chose to protect the oil and gas companies.

Faced with the choice of investing in green-collar jobs or maintaining the status quo on energy, the minority chose the status quo.

Remember the President's assertion that tax breaks were not needed when oil traded at $55 a barrel? Well, when the Senate voted on the energy package on December 13, 2007, oil cost more than $92 a barrel.

So where are we now? Vital new energy-tax provisions—such as incentives for plug-in hybrid vehicles—have not become law. Existing incentives—such as those for energy-efficient appliances—have lapsed. And in less than 7 months, many others will lapse, including the renewable energy production credit, solar credits, incentives for efficient buildings, and credits for biofuels.

So what do we do about it? To paraphrase Thomas Edison, ''I have not failed. I've just found two ways that won't work.''

I hope that this attempt will work. The bill that I introduce today, and on which I hope the Senate can vote next week, includes a robust energy package. It is very similar to that negotiated with the House last year. It is very similar to the one that got 59 votes in the Senate.

Like last year's bills, this package includes long-term extensions of renewable energy credits. It includes major funding for clean coal projects. It includes a new incentive for plug-in hybrids. And it includes extensions of vital incentives to promote energy efficiency.

This $17 billion energy package is slightly smaller than last December's. But it's still critically important to our Nation's energy future.

There is a key difference between this year's package and last year's: the offsets. In response to criticisms of the oil and gas offsets and the President's veto threat, we have dropped proposals to repeal oil and gas tax breaks.

Instead, we have included two offsets that have nothing to do with oil and gas. In fact, they have nothing to do with energy. They are simply good policy. And they have broad support.

The bill also extends provisions that offer tax benefits to individuals and businesses. One such provision is the teacher expense deduction.

Our schools are in desperate need of repair. Our students don't have the books or supplies they need. Some teachers have taken it upon themselves to use money from their own pockets to provide classroom supplies for their students.

In 2005 alone, more than 3.4 million families took the teacher expense deduction. The average salary for a teacher is about $38,000.

This says a lot about this profession's dedication to educating America's youth. These teachers work diligently to make sure that America stays competitive in this global economy by educating our children. And yet they pay out of their own pockets for supplies. The least we can do is to help share the cost.

Another provision that is important to American families is the qualified tuition deduction. Tuition costs have long been increasing faster than inflation. Parents and students worry about how to cover these escalating costs.

4.4 million families took the qualified tuition deduction in 2005. But the provision expired at the end of 2007.

The bill that I introduce today has other important benefits. Millions of families get tax relief from these expiring provisions and will suffer without this legislation.

Businesses will also suffer if Congress does not act. Many of the business provisions contained in the extenders package are crucial in allowing U.S.-based multinational corporations to compete effectively in a global economy.

America accounts for a third of the world's spending on scientific research and development, ranking first among all countries. This is impressive. But relative to the size of our economy, America is in sixth place. And the trends show that maintaining American leadership in the future depends on increased commitment to research and science.

Asia has recognized this. Spending on research and development has increased by 140 percent in China, Korea, and Taiwan. In America, it has increased by only 34 percent.

Asia's commitment is already paying off. More than a hundred Fortune 500 companies have opened research centers in India and China. I have visited some of them. I was impressed with the level of skill of the workers I met there.

There are workers in other countries who seek coveted research positions. Ireland, Poland, and other European countries would like American corporations to shift their R&D operations to their countries. Some of these countries offer incredible tax and non-tax benefits.

Yet our R&D tax credit expired on December 31. American corporations are at a competitive disadvantage. They are unsure if they will be able to obtain the benefit of the credit this year. And they need to plan for the future.

We need to pass an extenders package that allows American companies to take the credit as soon as possible.

American businesses need the R&D tax credit to compete in a global economy. The R&D tax credit gives companies an incentive to begin or continue research here in America. These jobs pay well and result in the creation of intellectual property.

We want these jobs. And we want the intellectual property to be created in our country.

American financial services companies successfully compete in world financial markets. We need to make sure, however, that the U.S. tax rules do not change that.

This legislation will extend the active financing exception to Subpart F. This provision preserves the international competitiveness of American-based financial services companies. This provision also contains appropriate safeguards to ensure that only truly active businesses benefit.

The active financing exception applies to active financial service income earned abroad by American financial services companies or American manufacturing firms with a financial services operation. The exception makes sure that this income is not subject to U.S. tax until that income is brought home to the U.S.

This provision will put the American financial services industry on an equal footing with foreign-based competitors who are not taxed on active financial services income.

There are several other provisions in this bill that encourage businesses to invest in this country. There are provisions that will help American businesses compete in a global economy. We must extend these provisions as soon as possible.

Finally, my bill will provide an AMT patch for 2008. The provision is not offset, because we recognize the reality of the budget constraints we face. We need to get this done. This is an important provision to the American families.

The patch will hold the number of people subject to the AMT at 4.2 million. As a result, over 20 million taxpayers will avoid the AMT next year.

The choice is easy. We should continue to support teachers, families and schools. We should continue to support the creation of jobs and intellectual property. That is why I urge my Colleagues to support this fully offset package.

Which is more important, Mr. President? 11 million families who take the state and local tax deduction, or a few hundred hedge fund managers?

Which is more important? 3.5 million teachers who pay out of their pocket for school supplies, or a few hundred hedge fund managers?

4.5 million families who struggle to pay for college tuition, or a few hundred hedge fund managers?

It is time to reach a conclusion. You can lay all the extenders bills end to end. But I submit that the best conclusion is the extenders package that I introduce today and that the Senate will try to get to next week. I urge my Colleagues to support the motion to invoke cloture on the motion to proceed.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3125

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Energy Independence and Tax Relief Act of 2008''.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—ENERGY TAX INCENTIVES

Subtitle A—Energy Production Incentives

PART I—RENEWABLE ENERGY INCENTIVES

SEC. 101. RENEWABLE ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

(1) 1-YEAR EXTENSION FOR WIND FACILITIES.—Paragraph (1) of section 45(d) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(2) 3-YEAR EXTENSION FOR CERTAIN OTHER FACILITIES.—Each of the following provisions of section 45(d) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2012'':

(A) Clauses (i) and (ii) of paragraph (2)(A).

(B) Clauses (i)(I) and (ii) of paragraph (3)(A).

(C) Paragraph (4).

(D) Paragraph (5).

(E) Paragraph (6).

(F) Paragraph (7).

(G) Subparagraphs (A) and (B) of paragraph (9).

(b) MODIFICATION OF CREDIT PHASEOUT.—

(1) REPEAL OF PHASEOUT.—Subsection (b) of section 45 is amended—

(A) by striking paragraph (1), and

(B) by striking ''the 8 cent amount in paragraph (1),'' in paragraph (2) thereof.

(2) LIMITATION BASED ON INVESTMENT IN FACILITY.—Subsection (b) of section 45 is amended by inserting before paragraph (2) the following new paragraph:

''(1) LIMITATION BASED ON INVESTMENT IN FACILITY.—

''(A) IN GENERAL.—In the case of any qualified facility originally placed in service after December 31, 2009, the amount of the credit determined under subsection (a) for any taxable year with respect to electricity produced at such facility shall not exceed the product of—

''(i) the applicable percentage with respect to such facility, multiplied by

''(ii) the eligible basis of such facility.

''(B) CARRYFORWARD OF UNUSED LIMITATION AND EXCESS CREDIT.—

''(i) UNUSED LIMITATION.—If the limitation imposed under subparagraph (A) with respect to any facility for any taxable year exceeds the prelimitation credit for such facility for such taxable year, the limitation imposed under subparagraph (A) with respect to such facility for the succeeding taxable year shall be increased by the amount of such excess.

''(ii) EXCESS CREDIT.—If the prelimitation credit with respect to any facility for any taxable year exceeds the limitation imposed under subparagraph (A) with respect to such facility for such taxable year, the credit determined under subsection (a) with respect to such facility for the succeeding taxable year (determined before the application of subparagraph (A) for such succeeding taxable year) shall be increased by the amount of such excess. With respect to any facility, no amount may be carried forward under this clause to any taxable year beginning after the 10-year period described in subsection (a)(2)(A)(ii) with respect to such facility.

''(iii) PRELIMITATION CREDIT.—The term 'prelimitation credit' with respect to any facility for a taxable year means the credit determined under subsection (a) with respect to such facility for such taxable year, determined without regard to subparagraph (A) and after taking into account any increase for such taxable year under clause (ii).

''(C) APPLICABLE PERCENTAGE.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable percentage' means, with respect to any facility, the appropriate percentage prescribed by the Secretary for the month in which such facility is originally placed in service.

''(ii) METHOD OF PRESCRIBING APPLICABLE PERCENTAGES.—The applicable percentages

prescribed by the Secretary for any month under clause (i) shall be percentages which yield over a 10-year period amounts of limitation under subparagraph (A) which have a present value equal to 35 percent of the eligible basis of the facility.

''(iii) METHOD OF DISCOUNTING.—The present value under clause (ii) shall be determined—

''(I) as of the last day of the 1st year of the 10-year period referred to in clause (ii),

''(II) by using a discount rate equal to the greater of 110 percent of the Federal long-term rate as in effect under section 1274(d) for the month preceding the month for which the applicable percentage is being prescribed, or 4.5 percent, and

''(III) by taking into account the limitation under subparagraph (A) for any year on the last day of such year.

''(D) ELIGIBLE BASIS.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'eligible basis' means, with respect to any facility, the sum of—

''(I) the basis of such facility determined as of the time that such facility is originally placed in service, and

''(II) the portion of the basis of any shared qualified property which is properly allocable to such facility under clause (ii).

''(ii) RULES FOR ALLOCATION.—For purposes of subclause (II) of clause (i), the basis of shared qualified property shall be allocated among all qualified facilities which are projected to be placed in service and which require utilization of such property in proportion to projected generation from such facilities.

''(iii) SHARED QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'shared qualified property' means, with respect to any facility, any property described in section 168(e)(3)(B)(vi)—

''(I) which a qualified facility will require for utilization of such facility, and

''(II) which is not a qualified facility.

''(iv) SPECIAL RULE RELATING TO GEOTHERMAL FACILITIES.—In the case of any qualified facility using geothermal energy to produce electricity, the basis of such facility for purposes of this paragraph shall be determined as though intangible drilling and development costs described in section 263(c) were capitalized rather than expensed.

''(E) SPECIAL RULE FOR FIRST AND LAST YEAR OF CREDIT PERIOD.—In the case of any taxable year any portion of which is not within the 10-year period described in subsection (a)(2)(A)(ii) with respect to any facility, the amount of the limitation under subparagraph (A) with respect to such facility shall be reduced by an amount which bears the same ratio to the amount of such limitation (determined without regard to this subparagraph) as such portion of the taxable year which is not within such period bears to the entire taxable year.

''(F) ELECTION TO TREAT ALL FACILITIES PLACED IN SERVICE IN A YEAR AS 1 FACILITY.—At the election of the taxpayer, all qualified facilities which are part of the same project and which are placed in service during the same calendar year shall be treated for purposes of this section as 1 facility which is placed in service at the mid-point of such year or the first day of the following calendar year.''.

(c) TRASH FACILITY CLARIFICATION.—Paragraph (7) of section 45(d) is amended—

(1) by striking ''facility which burns'' and inserting ''facility (other than a facility described in paragraph (6)) which uses'', and

(2) by striking ''COMBUSTION''.

(d) EXPANSION OF BIOMASS FACILITIES.—

(1) OPEN-LOOP BIOMASS FACILITIES.—Paragraph (3) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) EXPANSION OF FACILITY.—Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.''.

(2) CLOSED-LOOP BIOMASS FACILITIES.—Paragraph (2) of section 45(d) is amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

''(B) EXPANSION OF FACILITY.—Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A)(i), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.''.

(e) SALES OF NET ELECTRICITY TO REGULATED PUBLIC UTILITIES TREATED AS SALES TO UNRELATED PERSONS.—Paragraph (4) of section 45(e) is amended by adding at the end the following new sentence: ''The net amount of electricity sold by any taxpayer to a regulated public utility (as defined in section 7701(a)(33)) shall be treated as sold to an unrelated person.''.

(f) MODIFICATION OF RULES FOR HYDROPOWER PRODUCTION.—Subparagraph (C) of section 45(c)(8) is amended to read as follows:

''(C) NONHYDROELECTRIC DAM.—For purposes of subparagraph (A), a facility is described in this subparagraph if—

''(i) the hydroelectric project installed on the nonhydroelectric dam is licensed by the Federal Energy Regulatory Commission and meets all other applicable environmental, licensing, and regulatory requirements,

''(ii) the nonhydroelectric dam was placed in service before the date of the enactment of this paragraph and operated for flood control, navigation, or water supply purposes and did not produce hydroelectric power on the date of the enactment of this paragraph, and

''(iii) the hydroelectric project is operated so that the water surface elevation at any given location and time that would have occurred in the absence of the hydroelectric project is maintained, subject to any license requirements imposed under applicable law that change the water surface elevation for the purpose of improving environmental quality of the affected waterway.

The Secretary, in consultation with the Federal Energy Regulatory Commission, shall certify if a hydroelectric project licensed at a nonhydroelectric dam meets the criteria in clause (iii). Nothing in this section shall affect the standards under which the Federal Energy Regulatory Commission issues licenses for and regulates hydropower projects under part I of the Federal Power Act.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to property originally placed in service after December 31, 2008.

(2) REPEAL OF CREDIT PHASEOUT.—The amendments made by subsection (b)(1) shall apply to taxable years ending after December 31, 2008.

(3) LIMITATION BASED ON INVESTMENT IN FACILITY.—The amendment made by subsection (b)(2) shall apply to property originally placed in service after December 31, 2009.

(4) TRASH FACILITY CLARIFICATION; SALES TO RELATED REGULATED PUBLIC UTILITIES.—The amendments made by subsections (c) and (e) shall apply to electricity produced and sold after the date of the enactment of this Act.

(5) EXPANSION OF BIOMASS FACILITIES.—The amendments made by subsection (d) shall apply to property placed in service after the date of the enactment of this Act.

SEC. 102. PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.

(a) IN GENERAL.—Paragraph (1) of section 45(c) is amended by striking ''and'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', and'', and by adding at the end the following new subparagraph:

''(I) marine and hydrokinetic renewable energy.''.

(b) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

''(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

''(A) IN GENERAL.—The term 'marine and hydrokinetic renewable energy' means energy derived from—

''(i) waves, tides, and currents in oceans, estuaries, and tidal areas,

''(ii) free flowing water in rivers, lakes, and streams,

''(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

''(iv) differentials in ocean temperature (ocean thermal energy conversion).

''(B) EXCEPTIONS.—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.''.

(c) DEFINITION OF FACILITY.—Subsection (d) of section 45 is amended by adding at the end the following new paragraph:

''(11) MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term 'qualified facility' means any facility owned by the taxpayer—

''(A) which has a nameplate capacity rating of at least 150 kilowatts, and

''(B) which is originally placed in service on or after the date of the enactment of this paragraph and before January 1, 2012.''.

(d) CREDIT RATE.—Subparagraph (A) of section 45(b)(4) is amended by striking ''or (9)'' and inserting ''(9), or (11)''.

(e) COORDINATION WITH SMALL IRRIGATION POWER.—Paragraph (5) of section 45(d), as amended by section 101, is amended by striking ''January 1, 2012'' and inserting ''the date of the enactment of paragraph (11)''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 103. ENERGY CREDIT.

(a) EXTENSION OF CREDIT.—

(1) SOLAR ENERGY PROPERTY.—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) are each amended by striking ''January 1, 2009'' and inserting ''January 1, 2015''.

(2) FUEL CELL PROPERTY.—Subparagraph (E) of section 48(c)(1) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2014''.

(3) MICROTURBINE PROPERTY.—Subparagraph (E) of section 48(c)(2) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2014''.

(b) ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) is amended by striking ''and'' at the end of clause (iii), by redesignating clause (iv) as clause (v), and by inserting after clause (iii) the following new clause:

''(iv) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48, and''.

(c) ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.—

(1) IN GENERAL.—Section 48(a)(3)(A) (defining energy property) is amended by striking ''or'' at the end of clause (iii), by inserting ''or'' at the end of clause (iv), and by adding at the end the following new clause:

''(v) combined heat and power system property,''.

(2) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Section 48 is amended by adding at the end the following new subsection:

''(d) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of subsection (a)(3)(A)(v)—

''(1) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

''(A) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

''(B) which produces—

''(i) at least 20 percent of its total useful energy in the form of thermal energy which is not used to produce electrical or mechanical power (or combination thereof), and

''(ii) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

''(C) the energy efficiency percentage of which exceeds 60 percent, and

''(D) which is placed in service before January 1, 2015.

''(2) LIMITATION.—

''(A) IN GENERAL.—In the case of combined heat and power system property with an electrical capacity in excess of the applicable capacity placed in service during the taxable year, the credit under subsection (a)(1) (determined without regard to this paragraph) for such year shall be equal to the amount which bears the same ratio to such credit as the applicable capacity bears to the capacity of such property.

''(B) APPLICABLE CAPACITY.—For purposes of subparagraph (A), the term 'applicable capacity' means 15 megawatts or a mechanical energy capacity of more than 20,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

''(C) MAXIMUM CAPACITY.—The term 'combined heat and power system property' shall not include any property comprising a system if such system has a capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower or an equivalent combination of electrical and mechanical energy capacities.

''(3) SPECIAL RULES.—

''(A) ENERGY EFFICIENCY PERCENTAGE.—For purposes of this subsection, the energy efficiency percentage of a system is the fraction—

''(i) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

''(ii) the denominator of which is the lower heating value of the fuel sources for the system.

''(B) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under paragraph (1)(B) shall be determined on a Btu basis.

''(C) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

''(4) SYSTEMS USING BIOMASS.—If a system is designed to use biomass (within the meaning of paragraphs (2) and (3) of section 45(c) without regard to the last sentence of paragraph (3)(A)) for at least 90 percent of the energy source—

''(A) paragraph (1)(C) shall not apply, but

''(B) the amount of credit determined under subsection (a) with respect to such system shall not exceed the amount which bears the same ratio to such amount of credit (determined without regard to this paragraph) as the energy efficiency percentage of such system bears to 60 percent.''.

(d) INCREASE OF CREDIT LIMITATION FOR FUEL CELL PROPERTY.—Subparagraph (B) of section 48(c)(1) is amended by striking ''$500'' and inserting ''$1,500''.

(e) PUBLIC UTILITY PROPERTY TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Paragraph (3) of section 48(a) is amended by striking the second sentence thereof.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(B) Paragraph (2) of section 48(c) is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—The amendments made by subsection (b) shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

(3) COMBINED HEAT AND POWER AND FUEL CELL PROPERTY.—The amendments made by subsections (c) and (d) shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(4) PUBLIC UTILITY PROPERTY.—The amendments made by subsection (e) shall apply to periods after February 13, 2008, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SEC. 104. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) EXTENSION.—Section 25D(g) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2014''.

(b) MAXIMUM CREDIT FOR SOLAR ELECTRIC PROPERTY.—

(1) IN GENERAL.—Section 25D(b)(1)(A) is amended by striking ''$2,000'' and inserting ''$4,000''.

(2) CONFORMING AMENDMENT.—Section 25D(e)(4)(A)(i) is amended by striking ''$6,667'' and inserting ''$13,333''.

(c) CREDIT FOR RESIDENTIAL WIND PROPERTY.—

(1) IN GENERAL.—Section 25D(a) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) 30 percent of the qualified small wind energy property expenditures made by the taxpayer during such year.''.

(2) LIMITATION.—Section 25D(b)(1) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) $500 with respect to each half kilowatt of capacity (not to exceed $4,000) of wind turbines for which qualified small wind energy property expenditures are made.''.

(3) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURES.—

(A) IN GENERAL.—Section 25D(d) is amended by adding at the end the following new paragraph:

''(4) QUALIFIED SMALL WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified small wind energy property expenditure' means an expenditure for property which uses a wind turbine to generate electricity for use in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.''.

(B) NO DOUBLE BENEFIT.—Section 45(d)(1) is amended by adding at the end the following new sentence: ''Such term shall not include any facility with respect to which any qualified small wind energy property expenditure (as defined in subsection (d)(4) of section 25D) is taken into account in determining the credit under such section.''.

(4) MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.—Section 25D(e)(4)(A) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) $1,667 in the case of each half kilowatt of capacity (not to exceed $13,333) of wind turbines for which qualified small wind energy property expenditures are made.''.

(d) CREDIT FOR GEOTHERMAL HEAT PUMP SYSTEMS.—

(1) IN GENERAL.—Section 25D(a), as amended by subsection (c), is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following new paragraph:

''(5) 30 percent of the qualified geothermal heat pump property expenditures made by the taxpayer during such year.''.

(2) LIMITATION.—Section 25D(b)(1), as amended by subsection (c), is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) $2,000 with respect to any qualified geothermal heat pump property expenditures.''.

(3) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURE.—Section 25D(d), as amended by subsection (c), is amended by adding at the end the following new paragraph:

''(5) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified geothermal heat pump property expenditure' means an expenditure for qualified geothermal heat pump property installed on or in connection with a dwelling unit located in the United States and used as a residence by the taxpayer.

''(B) QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY.—The term 'qualified geothermal heat pump property' means any equipment which—

''(i) uses the ground or ground water as a thermal energy source to heat the dwelling unit referred to in subparagraph (A) or as a thermal energy sink to cool such dwelling unit, and

''(ii) meets the requirements of the Energy Star program which are in effect at the time

that the expenditure for such equipment is made.''.

(4) MAXIMUM EXPENDITURES IN CASE OF JOINT OCCUPANCY.—Section 25D(e)(4)(A), as amended by subsection (c), is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) $6,667 in the case of any qualified geothermal heat pump property expenditures.''.

(e) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 25D is amended to read as follows:

''(c) LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.—

''(1) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.

''(2) CARRYFORWARD OF UNUSED CREDIT.—

''(A) RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(B) RULE FOR OTHER YEARS.—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 23(b)(4)(B) is amended by inserting ''and section 25D'' after ''this section''.

(B) Section 24(b)(3)(B) is amended by striking ''and 25B'' and inserting '', 25B, and 25D''.

(C) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25D''.

(D) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25D''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) APPLICATION OF EGTRRA SUNSET.—The amendments made by subparagraphs (A) and (B) of subsection (e)(2) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendments relate.

SEC. 105. SPECIAL RULE TO IMPLEMENT FERC AND STATE ELECTRIC RESTRUCTURING POLICY.

(a) EXTENSION FOR QUALIFIED ELECTRIC UTILITIES.—

(1) IN GENERAL.—Paragraph (3) of section 451(i) is amended by inserting ''(before January 1, 2010, in the case of a qualified electric utility)'' after ''January 1, 2008''.

(2) QUALIFIED ELECTRIC UTILITY.—Subsection (i) of section 451 is amended by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively, and by inserting after paragraph (5) the following new paragraph:

''(6) QUALIFIED ELECTRIC UTILITY.—For purposes of this subsection, the term 'qualified electric utility' means a person that, as of the date of the qualifying electric transmission transaction, is vertically integrated, in that it is both—

''(A) a transmitting utility (as defined in section 3(23) of the Federal Power Act (16 U.S.C. 796(23))) with respect to the transmission facilities to which the election under this subsection applies, and

''(B) an electric utility (as defined in section 3(22) of the Federal Power Act (16 U.S.C. 796(22))).''.

(b) EXTENSION OF PERIOD FOR TRANSFER OF OPERATIONAL CONTROL AUTHORIZED BY FERC.—Clause (ii) of section 451(i)(4)(B) is amended by striking ''December 31, 2007'' and inserting ''the date which is 4 years after the close of the taxable year in which the transaction occurs''.

(c) PROPERTY LOCATED OUTSIDE THE UNITED STATES NOT TREATED AS EXEMPT UTILITY PROPERTY.—Paragraph (5) of section 451(i) is amended by adding at the end the following new subparagraph:

''(C) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The term 'exempt utility property' shall not include any property which is located outside the United States.''.

(d) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to transactions after December 31, 2007.

(2) TRANSFERS OF OPERATIONAL CONTROL.—The amendment made by subsection (b) shall take effect as if included in section 909 of the American Jobs Creation Act of 2004.

(3) EXCEPTION FOR PROPERTY LOCATED OUTSIDE THE UNITED STATES.—The amendment made by subsection (c) shall apply to transactions after the date of the enactment of this Act.

SEC. 106. NEW CLEAN RENEWABLE ENERGY BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 54C. NEW CLEAN RENEWABLE ENERGY BONDS.

''(a) NEW CLEAN RENEWABLE ENERGY BOND.—For purposes of this subpart, the term 'new clean renewable energy bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for capital expenditures incurred by governmental bodies, public power providers, or cooperative electric companies for one or more qualified renewable energy facilities,

''(2) the bond is issued by a qualified issuer, and

''(3) the issuer designates such bond for purposes of this section.

''(b) REDUCED CREDIT AMOUNT.—The annual credit determined under section 54A(b) with respect to any new clean renewable energy bond shall be 70 percent of the amount so determined without regard to this subsection.

''(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) IN GENERAL.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated under this subsection to such issuer.

''(2) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national new clean renewable energy bond limitation of $2,000,000,000 which shall be allocated by the Secretary as provided in paragraph (3), except that—

''(A) not more than 33⅓ percent thereof may be allocated to qualified projects of public power providers,

''(B) not more than 33⅓ percent thereof may be allocated to qualified projects of governmental bodies, and

''(C) not more than 33⅓ percent thereof may be allocated to qualified projects of cooperative electric companies.

''(3) METHOD OF ALLOCATION.—

''(A) ALLOCATION AMONG PUBLIC POWER PROVIDERS.—After the Secretary determines the qualified projects of public power providers which are appropriate for receiving an allocation of the national new clean renewable energy bond limitation, the Secretary shall, to the maximum extent practicable, make allocations among such projects in such manner that the amount allocated to each such project bears the same ratio to the cost of such project as the limitation under paragraph (2)(A) bears to the cost of all such projects.

''(B) ALLOCATION AMONG GOVERNMENTAL BODIES AND COOPERATIVE ELECTRIC COMPANIES.—The Secretary shall make allocations of the amount of the national new clean renewable energy bond limitation described in paragraphs (2)(B) and (2)(C) among qualified projects of governmental bodies and cooperative electric companies, respectively, in such manner as the Secretary determines appropriate.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED RENEWABLE ENERGY FACILITY.—The term 'qualified renewable energy facility' means a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date) owned by a public power provider, a governmental body, or a cooperative electric company.

''(2) PUBLIC POWER PROVIDER.—The term 'public power provider' means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).

''(3) GOVERNMENTAL BODY.—The term 'governmental body' means any State or Indian tribal government, or any political subdivision thereof.

''(4) COOPERATIVE ELECTRIC COMPANY.—The term 'cooperative electric company' means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C).

''(5) CLEAN RENEWABLE ENERGY BOND LENDER.—The term 'clean renewable energy bond lender' means a lender which is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity which is controlled by such lender.

''(6) QUALIFIED ISSUER.—The term 'qualified issuer' means a public power provider, a cooperative electric company, a governmental body, a clean renewable energy bond lender, or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d) is amended to read as follows:

''(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means—

''(A) a qualified forestry conservation bond, or

''(B) a new clean renewable energy bond,

which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).''.

(2) Subparagraph (C) of section 54A(d)(2) is amended to read as follows:

''(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means—

''(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e), and

''(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54C. Qualified clean renewable energy bonds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

PART II—CARBON MITIGATION PROVISIONS

SEC. 111. EXPANSION AND MODIFICATION OF ADVANCED COAL PROJECT INVESTMENT CREDIT.

(a) MODIFICATION OF CREDIT AMOUNT.—Section 48A(a) is amended by striking ''and'' at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting '', and'', and by adding at the end the following new paragraph:

''(3) 30 percent of the qualified investment for such taxable year in the case of projects described in clause (iii) of subsection (d)(3)(B).''.

(b) EXPANSION OF AGGREGATE CREDITS.—Section 48A(d)(3)(A) is amended by striking ''$1,300,000,000'' and inserting ''$2,550,000,000''.

(c) AUTHORIZATION OF ADDITIONAL PROJECTS.—

(1) IN GENERAL.—Subparagraph (B) of section 48A(d)(3) is amended to read as follows:

''(B) PARTICULAR PROJECTS.—Of the dollar amount in subparagraph (A), the Secretary is authorized to certify—

''(i) $800,000,000 for integrated gasification combined cycle projects the application for which is submitted during the period described in paragraph (2)(A)(i),

''(ii) $500,000,000 for projects which use other advanced coal-based generation technologies the application for which is submitted during the period described in paragraph (2)(A)(i), and

''(iii) $1,250,000,000 for advanced coal-based generation technology projects the application for which is submitted during the period described in paragraph (2)(A)(ii).''.

(2) APPLICATION PERIOD FOR ADDITIONAL PROJECTS.—Subparagraph (A) of section 48A(d)(2) is amended to read as follows:

''(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application meeting the requirements of subparagraph (B). An applicant may only submit an application—

''(i) for an allocation from the dollar amount specified in clause (i) or (ii) of paragraph (3)(B) during the 3-year period beginning on the date the Secretary establishes the program under paragraph (1), and

''(ii) for an allocation from the dollar amount specified in paragraph (3)(B)(iii) during the 3-year period beginning at the earlier of the termination of the period described in clause (i) or the date prescribed by the Secretary.''.

(3) CAPTURE AND SEQUESTRATION OF CARBON DIOXIDE EMISSIONS REQUIREMENT.—

(A) IN GENERAL.—Section 48A(e)(1) is amended by striking ''and'' at the end of subparagraph (E), by striking the period at the end of subparagraph (F) and inserting ''; and'', and by adding at the end the following new subparagraph:

''(G) in the case of any project the application for which is submitted during the period described in subsection (d)(2)(A)(ii), the project includes equipment which separates and sequesters at least 65 percent (70 percent in the case of an application for reallocated credits under subsection (d)(4)) of such project's total carbon dioxide emissions.''.

(B) HIGHEST PRIORITY FOR PROJECTS WHICH SEQUESTER CARBON DIOXIDE EMISSIONS.—Section 48A(e)(3) is amended by striking ''and'' at the end of subparagraph (A)(iii), by striking the period at the end of subparagraph (B)(iii) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions.''.

(C) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—Section 48A is amended by adding at the end the following new subsection:

''(i) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements of subsection (e)(1)(G).''.

(4) ADDITIONAL PRIORITY FOR RESEARCH PARTNERSHIPS.—Section 48A(e)(3)(B), as amended by paragraph (3)(B), is amended—

(A) by striking ''and'' at the end of clause (ii),

(B) by redesignating clause (iii) as clause (iv), and

(C) by inserting after clause (ii) the following new clause:

''(iii) applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)), and''.

(5) CLERICAL AMENDMENT.—Section 48A(e)(3) is amended by striking ''INTEGRATED GASIFICATION COMBINED CYCLE'' in the heading and inserting ''CERTAIN''.

(d) DISCLOSURE OF ALLOCATIONS.—Section 48A(d) is amended by adding at the end the following new paragraph:

''(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification under this subsection or section 48B(d), publicly disclose the identity of the applicant and the amount of the credit certified with respect to such applicant.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to credits the application for which is submitted during the period described in section 48A(d)(2)(A)(ii) of the Internal Revenue Code of 1986 and which are allocated or reallocated after the date of the enactment of this Act.

(2) DISCLOSURE OF ALLOCATIONS.—The amendment made by subsection (d) shall apply to certifications made after the date of the enactment of this Act.

(3) CLERICAL AMENDMENT.—The amendment made by subsection (c)(5) shall take effect as if included in the amendment made by section 1307(b) of the Energy Tax Incentives Act of 2005.

SEC. 112. EXPANSION AND MODIFICATION OF COAL GASIFICATION INVESTMENT CREDIT.

(a) MODIFICATION OF CREDIT AMOUNT.—Section 48B(a) is amended by inserting ''(30 percent in the case of credits allocated under subsection (d)(1)(B))'' after ''20 percent''.

(b) EXPANSION OF AGGREGATE CREDITS.—Section 48B(d)(1) is amended by striking ''shall not exceed $350,000,000'' and all that follows and inserting ''shall not exceed—

''(A) $350,000,000, plus

''(B) $250,000,000 for qualifying gasification projects that include equipment which separates and sequesters at least 75 percent of such project's total carbon dioxide emissions.''.

(c) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—Section 48B is amended by adding at the end the following new subsection:

''(f) RECAPTURE OF CREDIT FOR FAILURE TO SEQUESTER.—The Secretary shall provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any project which fails to attain or maintain the separation and sequestration requirements for such project under subsection (d)(1).''.

(d) SELECTION PRIORITIES.—Section 48B(d) is amended by adding at the end the following new paragraph:

''(4) SELECTION PRIORITIES.—In determining which qualifying gasification projects to certify under this section, the Secretary shall—

''(A) give highest priority to projects with the greatest separation and sequestration percentage of total carbon dioxide emissions, and

''(B) give high priority to applicant participants who have a research partnership with an eligible educational institution (as defined in section 529(e)(5)).''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to credits described in section 48B(d)(1)(B) of the Internal Revenue Code of 1986 which are allocated or reallocated after the date of the enactment of this Act.

SEC. 113. TEMPORARY INCREASE IN COAL EXCISE TAX.

Paragraph (2) of section 4121(e) is amended—

(1) by striking ''January 1, 2014'' in subparagraph (A) and inserting ''December 31, 2018'', and

(2) by striking ''January 1 after 1981'' in subparagraph (B) and inserting ''December 31 after 2007''.

SEC. 114. SPECIAL RULES FOR REFUND OF THE COAL EXCISE TAX TO CERTAIN COAL PRODUCERS AND EXPORTERS.

(a) REFUND.—

(1) COAL PRODUCERS.—

(A) IN GENERAL.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, if—

(i) a coal producer establishes that such coal producer, or a party related to such coal producer, exported coal produced by such coal producer to a foreign country or shipped coal produced by such coal producer to a possession of the United States, or caused such coal to be exported or shipped, the export or shipment of which was other than through an exporter who meets the requirements of paragraph (2),

(ii) such coal producer filed an excise tax return on or after October 1, 1990, and on or before the date of the enactment of this Act, and

(iii) such coal producer files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such coal producer an amount equal to the tax paid under section 4121 of such Code on such coal exported or shipped by the coal producer or a party related to such coal producer, or caused by the coal producer or a party related to such coal producer to be exported or shipped.

(B) SPECIAL RULES FOR CERTAIN TAXPAYERS.—For purposes of this section—

(i) IN GENERAL.—If a coal producer or a party related to a coal producer has received a judgment described in clause (iii), such coal producer shall be deemed to have established the export of coal to a foreign country or shipment of coal to a possession of the United States under subparagraph (A)(i).

(ii) AMOUNT OF PAYMENT.—If a taxpayer described in clause (i) is entitled to a payment under subparagraph (A), the amount of such payment shall be reduced by any amount paid pursuant to the judgment described in clause (iii).

(iii) JUDGMENT DESCRIBED.—A judgment is described in this subparagraph if such judgment—

(I) is made by a court of competent jurisdiction within the United States,

(II) relates to the constitutionality of any tax paid on exported coal under section 4121 of the Internal Revenue Code of 1986, and

(III) is in favor of the coal producer or the party related to the coal producer.

(2) EXPORTERS.—Notwithstanding subsections (a)(1) and (c) of section 6416 and section 6511 of the Internal Revenue Code of 1986, and a judgment described in paragraph (1)(B)(iii) of this subsection, if—

(A) an exporter establishes that such exporter exported coal to a foreign country or shipped coal to a possession of the United States, or caused such coal to be so exported or shipped,

(B) such exporter filed a tax return on or after October 1, 1990, and on or before the date of the enactment of this Act, and

(C) such exporter files a claim for refund with the Secretary not later than the close of the 30-day period beginning on the date of the enactment of this Act,

then the Secretary shall pay to such exporter an amount equal to $0.825 per ton of such coal exported by the exporter or caused to be exported or shipped, or caused to be exported or shipped, by the exporter.

(b) LIMITATIONS.—Subsection (a) shall not apply with respect to exported coal if a settlement with the Federal Government has been made with and accepted by, the coal producer, a party related to such coal producer, or the exporter, of such coal, as of the date that the claim is filed under this section with respect to such exported coal. For purposes of this subsection, the term ''settlement with the Federal Government'' shall not include any settlement or stipulation entered into as of the date of the enactment of this Act, the terms of which contemplate a judgment concerning which any party has reserved the right to file an appeal, or has filed an appeal.

(c) SUBSEQUENT REFUND PROHIBITED.—No refund shall be made under this section to the extent that a credit or refund of such tax on such exported or shipped coal has been paid to any person.

(d) DEFINITIONS.—For purposes of this section—

(1) COAL PRODUCER.—The term ''coal producer'' means the person in whom is vested ownership of the coal immediately after the coal is severed from the ground, without regard to the existence of any contractual arrangement for the sale or other disposition of the coal or the payment of any royalties between the producer and third parties. The term includes any person who extracts coal from coal waste refuse piles or from the silt waste product which results from the wet washing (or similar processing) of coal.

(2) EXPORTER.—The term ''exporter'' means a person, other than a coal producer, who does not have a contract, fee arrangement, or any other agreement with a producer or seller of such coal to export or ship such coal to a third party on behalf of the producer or seller of such coal and—

(A) is indicated in the shipper's export declaration or other documentation as the exporter of record, or

(B) actually exported such coal to a foreign country or shipped such coal to a possession of the United States, or caused such coal to be so exported or shipped.

(3) RELATED PARTY.—The term ''a party related to such coal producer'' means a person who—

(A) is related to such coal producer through any degree of common management, stock ownership, or voting control,

(B) is related (within the meaning of section 144(a)(3) of the Internal Revenue Code of 1986) to such coal producer, or

(C) has a contract, fee arrangement, or any other agreement with such coal producer to sell such coal to a third party on behalf of such coal producer.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Treasury or the Secretary's designee.

(e) TIMING OF REFUND.—With respect to any claim for refund filed pursuant to this section, the Secretary shall determine whether the requirements of this section are met not later than 180 days after such claim is filed. If the Secretary determines that the requirements of this section are met, the claim for refund shall be paid not later than 180 days after the Secretary makes such determination.

(f) INTEREST.—Any refund paid pursuant to this section shall be paid by the Secretary with interest from the date of overpayment determined by using the overpayment rate and method under section 6621 of the Internal Revenue Code of 1986.

(g) DENIAL OF DOUBLE BENEFIT.—The payment under subsection (a) with respect to any coal shall not exceed—

(1) in the case of a payment to a coal producer, the amount of tax paid under section 4121 of the Internal Revenue Code of 1986 with respect to such coal by such coal producer or a party related to such coal producer, and

(2) in the case of a payment to an exporter, an amount equal to $0.825 per ton with respect to such coal exported by the exporter or caused to be exported by the exporter.

(h) APPLICATION OF SECTION.—This section applies only to claims on coal exported or shipped on or after October 1, 1990, through the date of the enactment of this Act.

(i) STANDING NOT CONFERRED.—

(1) EXPORTERS.—With respect to exporters, this section shall not confer standing upon an exporter to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by a coal producer of any Federal or State tax, fee, or royalty paid by the coal producer.

(2) COAL PRODUCERS.—With respect to coal producers, this section shall not confer standing upon a coal producer to commence, or intervene in, any judicial or administrative proceeding concerning a claim for refund by an exporter of any Federal or State tax, fee, or royalty paid by the producer and alleged to have been passed on to an exporter.

SEC. 115. CARBON AUDIT OF THE TAX CODE.

(a) STUDY.—The Secretary of the Treasury shall enter into an agreement with the National Academy of Sciences to undertake a comprehensive review of the Internal Revenue Code of 1986 to identify the types of and specific tax provisions that have the largest effects on carbon and other greenhouse gas emissions and to estimate the magnitude of those effects.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the National Academy of Sciences shall submit to Congress a report containing the results of study authorized under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for the period of fiscal years 2008 and 2009.

Subtitle B—Transportation and Domestic Fuel Security Provisions

SEC. 121. INCLUSION OF CELLULOSIC BIOFUEL IN BONUS DEPRECIATION FOR BIOMASS ETHANOL PLANT PROPERTY.

(a) IN GENERAL.—Paragraph (3) of section 168(l) is amended to read as follows:

''(3) CELLULOSIC BIOFUEL.—The term 'cellulosic biofuel' means any liquid fuel which is produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis.''.

(b) CONFORMING AMENDMENTS.—Subsection (l) of section 168 is amended—

(1) by striking ''cellulosic biomass ethanol'' each place it appears and inserting ''cellulosic biofuel'',

(2) by striking ''CELLULOSIC BIOMASS ETHANOL'' in the heading of such subsection and inserting ''CELLULOSIC BIOFUEL'', and

(3) by striking ''CELLULOSIC BIOMASS ETHANOL'' in the heading of paragraph (2) thereof and inserting ''CELLULOSIC BIOFUEL''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 122. CREDITS FOR BIODIESEL AND RENEWABLE DIESEL.

(a) IN GENERAL.—Sections 40A(g), 6426(c)(6), and 6427(e)(5)(B) are each amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) INCREASE IN RATE OF CREDIT.—

(1) INCOME TAX CREDIT.—Paragraphs (1)(A) and (2)(A) of section 40A(b) are each amended by striking ''50 cents'' and inserting ''$1.00''.

(2) EXCISE TAX CREDIT.—Paragraph (2) of section 6426(c) is amended to read as follows:

''(2) APPLICABLE AMOUNT.—For purposes of this subsection, the applicable amount is $1.00.''.

(3) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 40A is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(B) Paragraph (2) of section 40A(f) is amended to read as follows:

''(2) EXCEPTION.—Subsection (b)(4) shall not apply with respect to renewable diesel.''.

(C) Paragraphs (2) and (3) of section 40A(e) are each amended by striking ''subsection (b)(5)(C)'' and inserting ''subsection (b)(4)(C)''.

(D) Clause (ii) of section 40A(d)(3)(C) is amended by striking ''subsection (b)(5)(B)'' and inserting ''subsection (b)(4)(B)''.

(c) UNIFORM TREATMENT OF DIESEL PRODUCED FROM BIOMASS.—Paragraph (3) of section 40A(f) is amended—

(1) by striking ''diesel fuel'' and inserting ''liquid fuel'',

(2) by striking ''using a thermal depolymerization process'', and

(3) by striking ''or D396'' in subparagraph (B) and inserting '', D396, or other equivalent standard approved by the Secretary''.

(d) COPRODUCTION OF RENEWABLE DIESEL WITH PETROLEUM FEEDSTOCK.—

(1) IN GENERAL.—Paragraph (3) of section 40A(f) (defining renewable diesel) is amended by adding at the end the following new sentence: ''Such term does not include any fuel derived from coprocessing biomass with a feedstock which is not biomass. For purposes of this paragraph, the term 'biomass' has the meaning given such term by section 45K(c)(3).''.

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 40A(f) is amended by striking ''(as defined in section 45K(c)(3))''.

(e) ELIGIBILITY OF CERTAIN AVIATION FUEL.—Paragraph (3) of section 40A(f) (defining renewable diesel) is amended by adding at the end the following: ''The term 'renewable diesel' also means fuel derived from biomass which meets the requirements of a Department of Defense specification for military jet fuel or an American Society of Testing and Materials specification for aviation turbine fuel.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2008.

(2) COPRODUCTION OF RENEWABLE DIESEL WITH PETROLEUM FEEDSTOCK.—The amendments made by subsection (d) shall apply to

fuel produced, and sold or used, after the date of the enactment of this Act.

SEC. 123. CLARIFICATION THAT CREDITS FOR FUEL ARE DESIGNED TO PROVIDE AN INCENTIVE FOR UNITED STATES PRODUCTION.

(a) ALCOHOL FUELS CREDIT.—Paragraph (6) of section 40(d) is amended to read as follows:

''(6) LIMITATION TO ALCOHOL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term 'United States' includes any possession of the United States.''.

(b) BIODIESEL FUELS CREDIT.—Subsection (d) of section 40A is amended by adding at the end the following new paragraph:

''(5) LIMITATION TO BIODIESEL WITH CONNECTION TO THE UNITED STATES.—No credit shall be determined under this section with respect to any biodiesel which is produced outside the United States for use as a fuel outside the United States. For purposes of this paragraph, the term 'United States' includes any possession of the United States.''.

(c) EXCISE TAX CREDIT.—

(1) IN GENERAL.—Section 6426 is amended by adding at the end the following new subsection:

''(i) LIMITATION TO FUELS WITH CONNECTION TO THE UNITED STATES.—

''(1) ALCOHOL.—No credit shall be determined under this section with respect to any alcohol which is produced outside the United States for use as a fuel outside the United States.

''(2) BIODIESEL AND ALTERNATIVE FUELS.—No credit shall be determined under this section with respect to any biodiesel or alternative fuel which is produced outside the United States for use as a fuel outside the United States.

For purposes of this subsection, the term 'United States' includes any possession of the United States.''.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 6427 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) LIMITATION TO FUELS WITH CONNECTION TO THE UNITED STATES.—No amount shall be payable under paragraph (1) or (2) with respect to any mixture or alternative fuel if credit is not allowed with respect to such mixture or alternative fuel by reason of section 6426(i).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to claims for credit or payment made on or after May 15, 2008.

SEC. 124. CREDIT FOR NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new section:

''SEC. 30D. NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credit amounts determined under subsection (b) with respect to each new qualified plug-in electric drive motor vehicle placed in service by the taxpayer during the taxable year.

''(b) PER VEHICLE DOLLAR LIMITATION.—

''(1) IN GENERAL.—The amount determined under this subsection with respect to any new qualified plug-in electric drive motor vehicle is the sum of the amounts determined under paragraphs (2) and (3) with respect to such vehicle.

''(2) BASE AMOUNT.—The amount determined under this paragraph is $3,000.

''(3) BATTERY CAPACITY.—In the case of a vehicle which draws propulsion energy from a battery with not less than 5 kilowatt hours of capacity, the amount determined under this paragraph is $200, plus $200 for each kilowatt hour of capacity in excess of 5 kilowatt hours. The amount determined under this paragraph shall not exceed $2,000.

''(c) APPLICATION WITH OTHER CREDITS.—

''(1) BUSINESS CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—So much of the credit which would be allowed under subsection (a) for any taxable year (determined without regard to this subsection) that is attributable to property of a character subject to an allowance for depreciation shall be treated as a credit listed in section 38(b) for such taxable year (and not allowed under subsection (a)).

''(2) PERSONAL CREDIT.—

''(A) IN GENERAL.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.

''(B) LIMITATION BASED ON AMOUNT OF TAX.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall not exceed the excess of—

''(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(ii) the sum of the credits allowable under subpart A (other than this section and sections 23 and 25D) and section 27 for the taxable year.

''(d) NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLE.—For purposes of this section—

''(1) IN GENERAL.—The term 'new qualified plug-in electric drive motor vehicle' means a motor vehicle (as defined in section 30(c)(2))—

''(A) the original use of which commences with the taxpayer,

''(B) which is acquired for use or lease by the taxpayer and not for resale,

''(C) which is made by a manufacturer,

''(D) which has a gross vehicle weight rating of less than 14,000 pounds,

''(E) which has received a certificate of conformity under the Clean Air Act and meets or exceeds the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and

''(F) which is propelled to a significant extent by an electric motor which draws electricity from a battery which—

''(i) has a capacity of not less than 4 kilowatt hours, and

''(ii) is capable of being recharged from an external source of electricity.

''(2) EXCEPTION.—The term 'new qualified plug-in electric drive motor vehicle' shall not include any vehicle which is not a passenger automobile or light truck if such vehicle has a gross vehicle weight rating of less than 8,500 pounds.

''(3) OTHER TERMS.—The terms 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(4) BATTERY CAPACITY.—The term 'capacity' means, with respect to any battery, the quantity of electricity which the battery is capable of storing, expressed in kilowatt hours, as measured from a 100 percent state of charge to a 0 percent state of charge.

''(e) LIMITATION ON NUMBER OF NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES ELIGIBLE FOR CREDIT.—

''(1) IN GENERAL.—In the case of a new qualified plug-in electric drive motor vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (a) shall be allowed.

''(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of new qualified plug-in electric drive motor vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after the date of the enactment of this section, is at least 60,000.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 50 percent for the first 2 calendar quarters of the phaseout period,

''(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

''(C) 0 percent for each calendar quarter thereafter.

''(4) CONTROLLED GROUPS.—Rules similar to the rules of section 30B(f)(4) shall apply for purposes of this subsection.

''(f) SPECIAL RULES.—

''(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit (determined without regard to subsection (c)).

''(2) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

''(3) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b)(1) or with respect to the portion of the cost of any property taken into account under section 179.

''(4) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(5) PROPERTY USED BY TAX-EXEMPT ENTITY; INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Rules similar to the rules of paragraphs (6) and (10) of section 30B(h) shall apply for purposes of this section.''.

(b) COORDINATION WITH ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(d)(3) is amended by adding at the end the following new subparagraph:

''(D) EXCLUSION OF PLUG-IN VEHICLES.—Any vehicle with respect to which a credit is allowable under section 30D (determined without regard to subsection (c) thereof) shall not be taken into account under this section.''.

(c) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended—

(1) by striking ''and'' each place it appears at the end of any paragraph,

(2) by striking ''plus'' each place it appears at the end of any paragraph,

(3) by striking the period at the end of paragraph (32) and inserting '', plus'', and

(4) by adding at the end the following new paragraph:

''(33) the portion of the new qualified plug-in electric drive motor vehicle credit to which section 30D(c)(1) applies.''.

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 24(b)(3)(B), as amended by section 104, is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(B) Section 25(e)(1)(C)(ii) is amended by inserting ''30D,'' after ''25D,''.

(C) Section 25B(g)(2), as amended by section 104, is amended by striking ''and 25D'' and inserting '', 25D, and 30D''.

(D) Section 26(a)(1), as amended by section 104, is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(E) Section 1400C(d)(2) is amended by striking ''and 25D'' and inserting ''25D, and 30D''.

(2) Section 1016(a) is amended by striking ''and'' at the end of paragraph (35), by striking the period at the end of paragraph (36) and inserting '', and'', and by adding at the end the following new paragraph:

''(37) to the extent provided in section 30D(f)(1).''.

(3) Section 6501(m) is amended by inserting ''30D(f)(4),'' after ''30C(e)(5),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 30D. New qualified plug-in electric drive motor vehicles.''.

(e) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS A PERSONAL CREDIT.—

(1) IN GENERAL.—Paragraph (2) of section 30B(g) is amended to read as follows:

''(2) PERSONAL CREDIT.—The credit allowed under subsection (a) for any taxable year (after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 30C(d)(2) is amended by striking ''sections 27, 30, and 30B'' and inserting ''sections 27 and 30''.

(B) Paragraph (3) of section 55(c) is amended by striking ''30B(g)(2),''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2008.

(2) TREATMENT OF ALTERNATIVE MOTOR VEHICLE CREDIT AS PERSONAL CREDIT.—The amendments made by subsection (e) shall apply to taxable years beginning after December 31, 2007.

(g) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (d)(1)(A) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

SEC. 125. EXCLUSION FROM HEAVY TRUCK TAX FOR IDLING REDUCTION UNITS AND ADVANCED INSULATION.

(a) IN GENERAL.—Section 4053 is amended by adding at the end the following new paragraphs:

''(9) IDLING REDUCTION DEVICE.—Any device or system of devices which—

''(A) is designed to provide to a vehicle those services (such as heat, air conditioning, or electricity) that would otherwise require the operation of the main drive engine while the vehicle is temporarily parked or remains stationary using one or more devices affixed to a tractor, and

''(B) is determined by the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy and the Secretary of Transportation, to reduce idling of such vehicle at a motor vehicle rest stop or other location where such vehicles are temporarily parked or remain stationary.

''(10) ADVANCED INSULATION.—Any insulation that has an R value of not less than R35 per inch.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales or installations after the date of the enactment of this Act.

SEC. 126. RESTRUCTURING OF NEW YORK LIBERTY ZONE TAX CREDITS.

(a) IN GENERAL.—Part I of subchapter Y of chapter 1 is amended by redesignating section 1400L as section 1400K and by adding at the end the following new section:

''SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.

''(a) IN GENERAL.—In the case of a New York Liberty Zone governmental unit, there shall be allowed as a credit against any taxes imposed for any payroll period by section 3402 for which such governmental unit is liable under section 3403 an amount equal to so much of the portion of the qualifying project expenditure amount allocated under subsection (b)(3) to such governmental unit for the calendar year as is allocated by such governmental unit to such period under subsection (b)(4).

''(b) QUALIFYING PROJECT EXPENDITURE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying project expenditure amount' means, with respect to any calendar year, the sum of—

''(A) the total expenditures paid or incurred during such calendar year by all New York Liberty Zone governmental units and the Port Authority of New York and New Jersey for any portion of qualifying projects located wholly within the City of New York, New York, and

''(B) any such expenditures—

''(i) paid or incurred in any preceding calendar year which begins after the date of enactment of this section, and

''(ii) not previously allocated under paragraph (3).

''(2) QUALIFYING PROJECT.—The term 'qualifying project' means any transportation infrastructure project, including highways, mass transit systems, railroads, airports, ports, and waterways, in or connecting with the New York Liberty Zone (as defined in section 1400K(h)), which is designated as a qualifying project under this section jointly by the Governor of the State of New York and the Mayor of the City of New York, New York.

''(3) GENERAL ALLOCATION.—

''(A) IN GENERAL.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly allocate to each New York Liberty Zone governmental unit the portion of the qualifying project expenditure amount which may be taken into account by such governmental unit under subsection (a) for any calendar year in the credit period.

''(B) AGGREGATE LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for all calendar years in the credit period shall not exceed $2,000,000,000.

''(C) ANNUAL LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for any calendar year in the credit period shall not exceed the sum of—

''(i) $115,000,000 ($425,000,000 in the case of the last 2 years in the credit period), plus

''(ii) the aggregate amount authorized to be allocated under this paragraph for all preceding calendar years in the credit period which was not so allocated.

''(D) UNALLOCATED AMOUNTS AT END OF CREDIT PERIOD.—If, as of the close of the credit period, the amount under subparagraph (B) exceeds the aggregate amount allocated under subparagraph (A) for all calendar years in the credit period, the Governor of the State of New York and the Mayor of the City of New York, New York, may jointly allocate to New York Liberty Zone governmental units for any calendar year in the 5-year period following the credit period an amount equal to—

''(i) the lesser of—

''(I) such excess, or

''(II) the qualifying project expenditure amount for such calendar year, reduced by

''(ii) the aggregate amount allocated under this subparagraph for all preceding calendar years.

''(4) ALLOCATION TO PAYROLL PERIODS.—Each New York Liberty Zone governmental unit which has been allocated a portion of the qualifying project expenditure amount under paragraph (3) for a calendar year may allocate such portion to payroll periods beginning in such calendar year as such governmental unit determines appropriate.

''(c) CARRYOVER OF UNUSED ALLOCATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if the amount allocated under subsection (b)(3) to a New York Liberty Zone governmental unit for any calendar year exceeds the aggregate taxes imposed by section 3402 for which such governmental unit is liable under section 3403 for periods beginning in such year, such excess shall be carried to the succeeding calendar year and added to the allocation of such governmental unit for such succeeding calendar year.

''(2) REALLOCATION.—If a New York Liberty Zone governmental unit does not use an amount allocated to it under subsection (b)(3) within the time prescribed by the Governor of the State of New York and the Mayor of the City of New York, New York, then such amount shall after such time be treated for purposes of subsection (b)(3) in the same manner as if it had never been allocated.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CREDIT PERIOD.—The term 'credit period' means the 12-year period beginning on January 1, 2009.

''(2) NEW YORK LIBERTY ZONE GOVERNMENTAL UNIT.—The term 'New York Liberty Zone governmental unit' means—

''(A) the State of New York,

''(B) the City of New York, New York, and

''(C) any agency or instrumentality of such State or City.

''(3) TREATMENT OF FUNDS.—Any expenditure for a qualifying project taken into account for purposes of the credit under this section shall be considered State and local funds for the purpose of any Federal program.

''(4) TREATMENT OF CREDIT AMOUNTS FOR PURPOSES OF WITHHOLDING TAXES.—For purposes of this title, a New York Liberty Zone governmental unit shall be treated as having paid to the Secretary, on the day on which wages are paid to employees, an amount equal to the amount of the credit allowed to such entity under subsection (a) with respect to such wages, but only if such governmental unit deducts and withholds wages for such payroll period under section 3401 (relating to wage withholding).

''(e) REPORTING.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly submit to the Secretary an annual report—

''(1) which certifies—

''(A) the qualifying project expenditure amount for the calendar year, and

''(B) the amount allocated to each New York Liberty Zone governmental unit under subsection (b)(3) for the calendar year, and

''(2) includes such other information as the Secretary may require to carry out this section.

''(f) GUIDANCE.—The Secretary may prescribe such guidance as may be necessary or appropriate to ensure compliance with the purposes of this section.''.

(b) TERMINATION OF SPECIAL ALLOWANCE AND EXPENSING.—Subparagraph (A) of section 1400K(b)(2), as redesignated by subsection (a), is amended by striking the parenthetical therein and inserting ''(in the case of nonresidential real property and residential rental property, the date of the enactment of the Energy Independence and Tax Relief Act of 2008 or, if acquired pursuant to a binding contract in effect on such enactment date, December 31, 2009)''.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(c)(3)(B) is amended by striking ''section 1400L(a)'' and inserting ''section 1400K(a)''.

(2) Section 168(k)(2)(D)(ii) is amended by striking ''section 1400L(c)(2)'' and inserting ''section 1400K(c)(2)''.

(3) The table of sections for part I of subchapter Y of chapter 1 is amended by redesignating the item relating to section 1400L as an item relating to section 1400K and by inserting after such item the following new item:

''Sec. 1400L. New York Liberty Zone tax credits.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 127. TRANSPORTATION FRINGE BENEFIT TO BICYCLE COMMUTERS.

(a) IN GENERAL.—Paragraph (1) of section 132(f) is amended by adding at the end the following:

''(D) Any qualified bicycle commuting reimbursement.''.

(b) LIMITATION ON EXCLUSION.—Paragraph (2) of section 132(f) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) the applicable annual limitation in the case of any qualified bicycle commuting reimbursement.''.

(c) DEFINITIONS.—Paragraph (5) of section 132(f) is amended by adding at the end the following:

''(F) DEFINITIONS RELATED TO BICYCLE COMMUTING REIMBURSEMENT.—

''(i) QUALIFIED BICYCLE COMMUTING REIMBURSEMENT.—The term 'qualified bicycle commuting reimbursement' means, with respect to any calendar year, any employer reimbursement during the 15-month period beginning with the first day of such calendar year for reasonable expenses incurred by the employee during such calendar year for the purchase of a bicycle and bicycle improvements, repair, and storage, if such bicycle is regularly used for travel between the employee's residence and place of employment.

''(ii) APPLICABLE ANNUAL LIMITATION.—The term 'applicable annual limitation' means, with respect to any employee for any calendar year, the product of $20 multiplied by the number of qualified bicycle commuting months during such year.

''(iii) QUALIFIED BICYCLE COMMUTING MONTH.—The term 'qualified bicycle commuting month' means, with respect to any employee, any month during which such employee—

''(I) regularly uses the bicycle for a substantial portion of the travel between the employee's residence and place of employment, and

''(II) does not receive any benefit described in subparagraph (A), (B), or (C) of paragraph (1).''.

(d) CONSTRUCTIVE RECEIPT OF BENEFIT.—Paragraph (4) of section 132(f) is amended by inserting ''(other than a qualified bicycle commuting reimbursement)'' after ''qualified transportation fringe''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 128. ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

(a) INCREASE IN CREDIT AMOUNT.—Section 30C is amended—

(1) by striking ''30 percent'' in subsection (a) and inserting ''50 percent'', and

(2) by striking ''$30,000'' in subsection (b)(1) and inserting ''$50,000''.

(b) EXTENSION OF CREDIT.—Paragraph (2) of section 30C(g) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

Subtitle C—Energy Conservation and Efficiency Provisions

SEC. 141. QUALIFIED ENERGY CONSERVATION BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1, as amended by section 106, is amended by adding at the end the following new section:

''SEC. 54D. QUALIFIED ENERGY CONSERVATION BONDS.

''(a) QUALIFIED ENERGY CONSERVATION BOND.—For purposes of this subchapter, the term 'qualified energy conservation bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified conservation purposes,

''(2) the bond is issued by a State or local government, and

''(3) the issuer designates such bond for purposes of this section.

''(b) REDUCED CREDIT AMOUNT.—The annual credit determined under section 54A(b) with respect to any qualified energy conservation bond shall be 70 percent of the amount so determined without regard to this subsection.

''(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (e).

''(d) NATIONAL LIMITATION ON AMOUNT OF BONDS DESIGNATED.—There is a national qualified energy conservation bond limitation of $3,000,000,000.

''(e) ALLOCATIONS.—

''(1) IN GENERAL.—The limitation applicable under subsection (d) shall be allocated by the Secretary among the States in proportion to the population of the States.

''(2) ALLOCATIONS TO LARGEST LOCAL GOVERNMENTS.—

''(A) IN GENERAL.—In the case of any State in which there is a large local government, each such local government shall be allocated a portion of such State's allocation which bears the same ratio to the State's allocation (determined without regard to this subparagraph) as the population of such large local government bears to the population of such State.

''(B) ALLOCATION OF UNUSED LIMITATION TO STATE.—The amount allocated under this subsection to a large local government may be reallocated by such local government to the State in which such local government is located.

''(C) LARGE LOCAL GOVERNMENT.—For purposes of this section, the term 'large local government' means any municipality or county if such municipality or county has a population of 100,000 or more.

''(3) ALLOCATION TO ISSUERS; RESTRICTION ON PRIVATE ACTIVITY BONDS.—Any allocation under this subsection to a State or large local government shall be allocated by such State or large local government to issuers within the State in a manner that results in not less than 70 percent of the allocation to such State or large local government being used to designate bonds which are not private activity bonds.

''(f) QUALIFIED CONSERVATION PURPOSE.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified conservation purpose' means any of the following:

''(A) Capital expenditures incurred for purposes of—

''(i) reducing energy consumption in publicly-owned buildings by at least 20 percent,

''(ii) implementing green community programs,

''(iii) rural development involving the production of electricity from renewable energy resources, or

''(iv) any qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and without regard to any placed in service date).

''(B) Expenditures with respect to research facilities, and research grants, to support research in—

''(i) development of cellulosic ethanol or other nonfossil fuels,

''(ii) technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels,

''(iii) increasing the efficiency of existing technologies for producing nonfossil fuels,

''(iv) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation, or

''(v) technologies to reduce energy use in buildings.

''(C) Mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting.

''(D) Demonstration projects designed to promote the commercialization of—

''(i) green building technology,

''(ii) conversion of agricultural waste for use in the production of fuel or otherwise,

''(iii) advanced battery manufacturing technologies,

''(iv) technologies to reduce peak use of electricity, or

''(v) technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity.

''(E) Public education campaigns to promote energy efficiency.

''(2) SPECIAL RULES FOR PRIVATE ACTIVITY BONDS.—For purposes of this section, in the case of any private activity bond, the term 'qualified conservation purposes' shall not include any expenditure which is not a capital expenditure.

''(g) POPULATION.—

''(1) IN GENERAL.—The population of any State or local government shall be determined for purposes of this section as provided in section 146(j) for the calendar year which includes the date of the enactment of this section.

''(2) SPECIAL RULE FOR COUNTIES.—In determining the population of any county for purposes of this section, any population of such county which is taken into account in determining the population of any municipality which is a large local government shall not be taken into account in determining the population of such county.

''(h) APPLICATION TO INDIAN TRIBAL GOVERNMENTS.—An Indian tribal government shall be treated for purposes of this section in the same manner as a large local government, except that—

''(1) an Indian tribal government shall be treated for purposes of subsection (e) as located within a State to the extent of so much of the population of such government as resides within such State, and

''(2) any bond issued by an Indian tribal government shall be treated as a qualified energy conservation bond only if issued as part of an issue the available project proceeds of which are used for purposes for which such Indian tribal government could issue bonds to which section 103(a) applies.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d), as amended by section 106, is amended to read as follows:

''(1) QUALIFIED TAX CREDIT BOND.—The term 'qualified tax credit bond' means—

''(A) a qualified forestry conservation bond,

''(B) a new clean renewable energy bond, or

''(C) a qualified energy conservation bond, which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).''.

(2) Subparagraph (C) of section 54A(d)(2), as amended by section 106, is amended to read as follows:

''(C) QUALIFIED PURPOSE.—For purposes of this paragraph, the term 'qualified purpose' means—

''(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e),

''(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1), and

''(iii) in the case of a qualified energy conservation bond, a purpose specified in section 54D(a)(1).''.

(3) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54D. Qualified energy conservation bonds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 142. CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) EXTENSION OF CREDIT.—Section 25C(g) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) QUALIFIED BIOMASS FUEL PROPERTY.—

(1) IN GENERAL.—Section 25C(d)(3) is amended—

(A) by striking ''and'' at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting '', and'', and

(C) by adding at the end the following new subparagraph:

''(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.''.

(2) BIOMASS FUEL.—Section 25C(d) is amended by adding at the end the following new paragraph:

''(6) BIOMASS FUEL.—The term 'biomass fuel' means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.''.

(c) COORDINATION WITH CREDIT FOR QUALIFIED GEOTHERMAL HEAT PUMP PROPERTY EXPENDITURES.—

(1) IN GENERAL.—Paragraph (3) of section 25C(d), as amended by subsection (b), is amended by striking subparagraph (C) and by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 25C(d)(2) is amended to read as follows:

''(C) REQUIREMENTS AND STANDARDS FOR AIR CONDITIONERS AND HEAT PUMPS.—The standards and requirements prescribed by the Secretary under subparagraph (B) with respect to the energy efficiency ratio (EER) for central air conditioners and electric heat pumps—

''(i) shall require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

''(ii) may be based on the certified data of the Air Conditioning and Refrigeration Institute that are prepared in partnership with the Consortium for Energy Efficiency.''.

(d) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—

(1) IN GENERAL.—Paragraph (1) of section 25C(c) is amended by inserting '', or an asphalt roof with appropriate cooling granules,'' before ''which meet the Energy Star program requirements''.

(2) BUILDING ENVELOPE COMPONENT.—Subparagraph (D) of section 25C(c)(2) is amended—

(A) by inserting ''or asphalt roof'' after ''metal roof'', and

(B) by inserting ''or cooling granules'' after ''pigmented coatings''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made this section shall apply to expenditures made after December 31, 2007.

(2) MODIFICATION OF QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—The amendments made by subsection (d) shall apply to property placed in service after the date of the enactment of this Act.

SEC. 143. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

Subsection (h) of section 179D is amended by striking ''December 31, 2008'' and inserting ''December 31, 2013''.

SEC. 144. MODIFICATIONS OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.

(a) IN GENERAL.—Subsection (b) of section 45M is amended to read as follows:

''(b) APPLICABLE AMOUNT.—For purposes of subsection (a)—

''(1) DISHWASHERS.—The applicable amount is—

''(A) $45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no more than 324 kilowatt hours per year and 5.8 gallons per cycle, and

''(B) $75 in the case of a dishwasher which is manufactured in calendar year 2008, 2009, or 2010 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

''(2) CLOTHES WASHERS.—The applicable amount is—

''(A) $75 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 which meets or exceeds a 1.72 modified energy factor and does not exceed a 8.0 water consumption factor,

''(B) $125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

''(C) $150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

''(D) $250 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.

''(3) REFRIGERATORS.—The applicable amount is—

''(A) $50 in the case of a refrigerator which is manufactured in calendar year 2008, and consumes at least 20 percent but not more than 22.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(B) $75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

''(C) $100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

''(D) $200 in the case of a refrigerator manufactured in calendar year 2008, 2009, or 2010 and which consumes at least 30 percent less energy than the 2001 energy conservation standards.''.

(b) ELIGIBLE PRODUCTION.—

(1) SIMILAR TREATMENT FOR ALL APPLIANCES.—Subsection (c) of section 45M is amended—

(A) by striking paragraph (2),

(B) by striking ''(1) IN GENERAL'' and all that follows through ''the eligible'' and inserting ''The eligible'',

(C) by moving the text of such subsection in line with the subsection heading, and

(D) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and by moving such paragraphs 2 ems to the left.

(2) MODIFICATION OF BASE PERIOD.—Paragraph (2) of section 45M(c), as amended by paragraph (1), is amended by striking ''3-calendar year'' and inserting ''2-calendar year''.

(c) TYPES OF ENERGY EFFICIENT APPLIANCES.—Subsection (d) of section 45M (defining types of energy efficient appliances) is amended to read as follows:

''(d) TYPES OF ENERGY EFFICIENT APPLIANCE.—For purposes of this section, the types of energy efficient appliances are—

''(1) dishwashers described in subsection (b)(1),

''(2) clothes washers described in subsection (b)(2), and

''(3) refrigerators described in subsection (b)(3).''.

(d) AGGREGATE CREDIT AMOUNT ALLOWED.—

(1) INCREASE IN LIMIT.—Paragraph (1) of section 45M(e) is amended to read as follows:

''(1) AGGREGATE CREDIT AMOUNT ALLOWED.—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed $75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.''.

(2) EXCEPTION FOR CERTAIN REFRIGERATOR AND CLOTHES WASHERS.—Paragraph (2) of section 45M(e) is amended to read as follows:

''(2) AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).''.

(e) QUALIFIED ENERGY EFFICIENT APPLIANCES.—

(1) IN GENERAL.—Paragraph (1) of section 45M(f) (defining qualified energy efficient appliance) is amended to read as follows:

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) any dishwasher described in subsection (b)(1),

''(B) any clothes washer described in subsection (b)(2), and

''(C) any refrigerator described in subsection (b)(3).''.

(2) CLOTHES WASHER.—Section 45M(f)(3) is amended by inserting ''commercial'' before ''residential'' the second place it appears.

(3) TOP-LOADING CLOTHES WASHER.—Subsection (f) of section 45M is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) TOP-LOADING CLOTHES WASHER.—The term 'top-loading clothes washer' means a

clothes washer which has the clothes container compartment access located on the top of the machine and which operates on a vertical axis.''.

(4) REPLACEMENT OF ENERGY FACTOR.—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

''(6) MODIFIED ENERGY FACTOR.—The term 'modified energy factor' means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.''.

(5) GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.—Section 45M(f), as amended by paragraph (3), is amended by adding at the end the following:

''(9) GALLONS PER CYCLE.—The term 'gallons per cycle' means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

''(10) WATER CONSUMPTION FACTOR.—The term 'water consumption factor' means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007.

SEC. 145. ACCELERATED RECOVERY PERIOD FOR DEPRECIATION OF SMART METERS AND SMART GRID SYSTEMS.

(a) IN GENERAL.—Section 168(e)(3)(D) is amended by striking ''and'' at the end of clause (i), by striking the period at the end of clause (ii) and inserting a comma, and by inserting after clause (ii) the following new clauses:

''(iii) any qualified smart electric meter, and

''(iv) any qualified smart electric grid system.''.

(b) DEFINITIONS.—Section 168(i) is amended by inserting at the end the following new paragraph:

''(18) QUALIFIED SMART ELECTRIC METERS.—

''(A) IN GENERAL.—The term 'qualified smart electric meter' means any smart electric meter which is placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

''(B) SMART ELECTRIC METER.—For purposes of subparagraph (A), the term 'smart electric meter' means any time-based meter and related communication equipment which is capable of being used by the taxpayer as part of a system that—

''(i) measures and records electricity usage data on a time-differentiated basis in at least 24 separate time segments per day,

''(ii) provides for the exchange of information between supplier or provider and the customer's electric meter in support of time-based rates or other forms of demand response,

''(iii) provides data to such supplier or provider so that the supplier or provider can provide energy usage information to customers electronically, and

''(iv) provides net metering.

''(19) QUALIFIED SMART ELECTRIC GRID SYSTEMS.—

''(A) IN GENERAL.—The term 'qualified smart electric grid system' means any smart grid property used as part of a system for electric distribution grid communications, monitoring, and management placed in service by a taxpayer who is a supplier of electric energy or a provider of electric energy services.

''(B) SMART GRID PROPERTY.—For the purposes of subparagraph (A), the term 'smart grid property' means electronics and related equipment that is capable of—

''(i) sensing, collecting, and monitoring data of or from all portions of a utility's electric distribution grid,

''(ii) providing real-time, two-way communications to monitor or manage such grid, and

''(iii) providing real time analysis of and event prediction based upon collected data that can be used to improve electric distribution system reliability, quality, and performance.''.

(c) CONTINUED APPLICATION OF 150 PERCENT DECLINING BALANCE METHOD.—Paragraph (2) of section 168(b) is amended by striking ''or'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

''(C) any property (other than property described in paragraph (3)) which is a qualified smart electric meter or qualified smart electric grid system, or''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 146. QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.

(a) IN GENERAL.—Paragraph (8) of section 142(l) is amended by striking ''September 30, 2009'' and inserting ''September 30, 2012''.

(b) TREATMENT OF CURRENT REFUNDING BONDS.—Paragraph (9) of section 142(l) is amended by striking ''October 1, 2009'' and inserting ''October 1, 2012''.

(c) ACCOUNTABILITY.—The second sentence of section 701(d) of the American Jobs Creation Act of 2004 is amended by striking ''issuance,'' and inserting ''issuance of the last issue with respect to such project,''.

TITLE II—ONE-YEAR EXTENSION OF TEMPORARY PROVISIONS

Subtitle A—Alternative Minimum Tax

SEC. 201. EXTENSION OF ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE PERSONAL CREDITS.

(a) IN GENERAL.—Paragraph (2) of section 26(a) (relating to special rule for taxable years 2000 through 2007) is amended—

(1) by striking ''or 2007'' and inserting ''2007, or 2008'', and

(2) by striking ''2007'' in the heading thereof and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 202. EXTENSION OF INCREASED ALTERNATIVE MINIMUM TAX EXEMPTION AMOUNT.

(a) IN GENERAL.—Paragraph (1) of section 55(d) (relating to exemption amount) is amended—

(1) by striking ''($66,250 in the case of taxable years beginning in 2007)'' in subparagraph (A) and inserting ''($69,950 in the case of taxable years beginning in 2008)'', and

(2) by striking ''($44,350 in the case of taxable years beginning in 2007)'' in subparagraph (B) and inserting ''($46,200 in the case of taxable years beginning in 2008)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 203. INCREASE OF AMT REFUNDABLE CREDIT AMOUNT FOR INDIVIDUALS WITH LONG-TERM UNUSED CREDITS FOR PRIOR YEAR MINIMUM TAX LIABILITY, ETC.

(a) IN GENERAL.—Paragraph (2) of section 53(e) is amended to read as follows:

''(2) AMT REFUNDABLE CREDIT AMOUNT.—For purposes of paragraph (1), the term 'AMT refundable credit amount' means, with respect to any taxable year, the amount (not in excess of the long-term unused minimum tax credit for such taxable year) equal to the greater of—

''(A) 50 percent of the long-term unused minimum tax credit for such taxable year, or

''(B) the amount (if any) of the AMT refundable credit amount for the taxpayer's preceding taxable year (determined without regard to subsection (f)(2)).''.

(b) TREATMENT OF CERTAIN UNDERPAYMENTS, INTEREST, AND PENALTIES ATTRIBUTABLE TO THE TREATMENT OF INCENTIVE STOCK OPTIONS.—Section 53 is amended by adding at the end the following new subsection:

''(f) TREATMENT OF CERTAIN UNDERPAYMENTS, INTEREST, AND PENALTIES ATTRIBUTABLE TO THE TREATMENT OF INCENTIVE STOCK OPTIONS.—

''(1) ABATEMENT.—Any underpayment of tax outstanding on the date of the enactment of this subsection which is attributable to the application of section 56(b)(3) for any taxable year ending before January 1, 2008 (and any interest or penalty with respect to such underpayment which is outstanding on such date of enactment), is hereby abated. The amount determined under subsection (b)(1) shall not include any tax abated under the preceding sentence.

''(2) INCREASE IN CREDIT FOR CERTAIN INTEREST AND PENALTIES ALREADY PAID.—The AMT refundable credit amount, and the minimum tax credit determined under subsection (b), for the taxpayer's first 2 taxable years beginning after December 31, 2007, shall each be increased by 50 percent of the aggregate amount of the interest and penalties which were paid by the taxpayer before the date of the enactment of this subsection and which would (but for such payment) have been abated under paragraph (1).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to taxable years beginning after December 31, 2007.

(2) ABATEMENT.—Section 53(f)(1) of the Internal Revenue Code of 1986, as added by subsection (b), shall take effect on the date of the enactment of this Act.

Subtitle B—Extensions Primarily Affecting Individuals

SEC. 211. DEDUCTION FOR STATE AND LOCAL SALES TAXES.

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 212. DEDUCTION OF QUALIFIED TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 222 is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 213. TREATMENT OF CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

(a) INTEREST-RELATED DIVIDENDS.—Subparagraph (C) of section 871(k)(1) (defining interest-related dividend) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) SHORT-TERM CAPITAL GAIN DIVIDENDS.—Subparagraph (C) of section 871(k)(2) (defining short-term capital gain dividend) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dividends with respect to taxable years of regulated investment companies beginning after December 31, 2007.

SEC. 214. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subparagraph (F) of section 408(d)(8) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made in taxable years beginning after December 31, 2007.

SEC. 215. DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2007'' and inserting ''2007, or 2008''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2007.

SEC. 216. STOCK IN RIC FOR PURPOSES OF DETERMINING ESTATES OF NONRESIDENTS NOT CITIZENS.

(a) IN GENERAL.—Paragraph (3) of section 2105(d) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to decedents dying after December 31, 2007.

SEC. 217. QUALIFIED INVESTMENT ENTITIES.

(a) IN GENERAL.—Clause (ii) of section 897(h)(4)(A) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2008, except that such amendment shall not apply to the application of withholding requirements with respect to any payment made on or before the date of the enactment of this Act.

SEC. 218. EXCLUSION OF AMOUNTS RECEIVED UNDER QUALIFIED GROUP LEGAL SERVICES PLANS.

(a) IN GENERAL.—Subsection (e) of section 120 is amended by striking ''shall not apply to taxable years beginning after June 30, 1992'' and inserting ''shall apply to taxable years beginning after December 31, 2007, and before January 1, 2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

Subtitle C—Extensions Primarily Affecting Businesses

SEC. 221. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) EXTENSION.—Section 41(h) (relating to termination) is amended—

(1) by striking ''December 31, 2007'' and inserting ''December 31, 2008'' in paragraph (1)(B),

(2) by redesignating paragraph (2) as paragraph (3), and

(3) by inserting after paragraph (1) the following new paragraph:

''(2) TERMINATION OF ALTERNATIVE INCREMENTAL CREDIT.—No election under subsection (c)(4) shall apply to amounts paid or incurred after December 31, 2007.''.

(b) MODIFICATION OF ALTERNATIVE SIMPLIFIED CREDIT.—Paragraph (5)(A) of section 41(c) (relating to election of alternative simplified credit) is amended to read as follows:

''(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 14 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.''.

(c) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) (relating to special rule) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(d) TECHNICAL CORRECTION.—Paragraph (3) of section 41(h) is amended to read as follows:

''(2) COMPUTATION FOR TAXABLE YEAR IN WHICH CREDIT TERMINATES.—In the case of any taxable year with respect to which this section applies to a number of days which is less than the total number of days in such taxable year—

''(A) the amount determined under subsection (c)(1)(B) with respect to such taxable year shall be the amount which bears the same ratio to such amount (determined without regard to this paragraph) as the number of days in such taxable year to which this section applies bears to the total number of days in such taxable year, and

''(B) for purposes of subsection (c)(5), the average qualified research expenses for the preceding 3 taxable years shall be the amount which bears the same ratio to such average qualified research expenses (determined without regard to this paragraph) as the number of days in such taxable year to which this section applies bears to the total number of days in such taxable year.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2007.

SEC. 222. INDIAN EMPLOYMENT CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45A is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 223. NEW MARKETS TAX CREDIT.

Subparagraph (D) of section 45D(f)(1) is amended by striking ''and 2008'' and inserting ''2008, and 2009''.

SEC. 224. RAILROAD TRACK MAINTENANCE.

(a) IN GENERAL.—Subsection (f) of section 45G (relating to application of section) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(b) CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—Subparagraph (B) of section 38(c)(4) (relating to specified credits), as amended by section 103, is amended—

(1) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively, and

(2) by inserting after clause (iii) the following new clause:

''(iv) the credit determined under section 45G,''.

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to expenditures paid or incurred during taxable years beginning after December 31, 2007.

(2) The amendments made by subsection (b) shall apply to credits determined under section 45G in taxable years beginning after December 31, 2007, and to carrybacks of such credits.

SEC. 225. EXTENSION OF MINE RESCUE TEAM TRAINING CREDIT.

Section 45N(e) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

SEC. 226. EXTENSION OF 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS; 15-YEAR STRAIGHT-LINE COST RECOVERY FOR CERTAIN IMPROVEMENTS TO RETAIL SPACE.

(a) EXTENSION OF LEASEHOLD AND RESTAURANT IMPROVEMENTS.—

(1) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) (relating to 15-year property) are each amended by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2007.

(b) TREATMENT TO INCLUDE NEW CONSTRUCTION.—

(1) IN GENERAL.—Paragraph (7) of section 168(e) (relating to classification of property) is amended to read as follows:

''(7) QUALIFIED RESTAURANT PROPERTY.—The term 'qualified restaurant property' means any section 1250 property which is a building or an improvement to a building if more than 50 percent of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act.

(c) RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN IMPROVEMENTS TO RETAIL SPACE.—

(1) 15-YEAR RECOVERY PERIOD.—Section 168(e)(3)(E) (relating to 15-year property) is amended by striking ''and'' at the end of clause (vii), by striking the period at the end of clause (viii) and inserting '', and'', and by adding at the end the following new clause:

''(ix) any qualified retail improvement property placed in service before January 1, 2009.''.

(2) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—Section 168(e) is amended by adding at the end the following new paragraph:

''(8) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—

''(A) IN GENERAL.—The term 'qualified retail improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

''(i) such portion is open to the general public and is used in the retail trade or business of selling tangible personal property to the general public, and

''(ii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

''(B) IMPROVEMENTS MADE BY OWNER.—In the case of an improvement made by the owner of such improvement, such improvement shall be qualified retail improvement property (if at all) only so long as such improvement is held by such owner. Rules similar to the rules under paragraph (6)(B) shall apply for purposes of the preceding sentence.

''(C) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

''(i) the enlargement of the building,

''(ii) any elevator or escalator,

''(iii) any structural component benefitting a common area, or

''(iv) the internal structural framework of the building.''.

(3) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) is amended by adding at the end the following new subparagraph:

''(I) Qualified retail improvement property described in subsection (e)(8).''.

(4) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (E)(viii) the following new item:

''(E)(ix) ..... 39''.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act.

SEC. 227. SEVEN-YEAR COST RECOVERY PERIOD FOR MOTORSPORTS RACING TRACK FACILITY.

(a) IN GENERAL.—Subparagraph (D) of section 168(i)(15) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007.

SEC. 228. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATION.

(a) IN GENERAL.—Paragraph (8) of section 168(j) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2007.

SEC. 229. EXTENSION OF ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.

Section 179E(g) (relating to termination) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

SEC. 230. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Subsection (h) of section 198 is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred after December 31, 2007.

SEC. 231. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

(a) IN GENERAL.—Subparagraph (C) of section 199(d)(8) is amended—

(1) by striking ''first 2 taxable years'' and inserting ''first 3 taxable years'', and

(2) by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 232. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Clause (iv) of section 512(b)(13)(E) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments received or accrued after December 31, 2007.

SEC. 233. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1, as amended by sections 106 and 141, is amended by adding at the end the following new section:

''SEC. 54E. QUALIFIED ZONE ACADEMY BONDS.

''(a) QUALIFIED ZONE ACADEMY BONDS.—For purposes of this subchapter, the term 'qualified zone academy bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency,

''(2) the bond is issued by a State or local government within the jurisdiction of which such academy is located, and

''(3) the issuer—

''(A) designates such bond for purposes of this section,

''(B) certifies that it has written assurances that the private business contribution requirement of subsection (b) will be met with respect to such academy, and

''(C) certifies that it has the written approval of the eligible local education agency for such bond issuance.

''(b) PRIVATE BUSINESS CONTRIBUTION REQUIREMENT.—For purposes of subsection (a), the private business contribution requirement of this subsection is met with respect to any issue if the eligible local education agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

''(c) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a national zone academy bond limitation for each calendar year. Such limitation is $400,000,000 for 2008, and, except as provided in paragraph (4), zero thereafter.

''(2) ALLOCATION OF LIMITATION.—The national zone academy bond limitation for a calendar year shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). The limitation amount allocated to a State under the preceding sentence shall be allocated by the State education agency to qualified zone academies within such State.

''(3) DESIGNATION SUBJECT TO LIMITATION AMOUNT.—The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under paragraph (2) for such calendar year.

''(4) CARRYOVER OF UNUSED LIMITATION.—

''(A) IN GENERAL.—If for any calendar year—

''(i) the limitation amount for any State, exceeds

''(ii) the amount of bonds issued during such year which are designated under subsection (a) with respect to qualified zone academies within such State,

the limitation amount for such State for the following calendar year shall be increased by the amount of such excess.

''(B) LIMITATION ON CARRYOVER.—Any carryforward of a limitation amount may be carried only to the first 2 years following the unused limitation year. For purposes of the preceding sentence, a limitation amount shall be treated as used on a first-in first-out basis.

''(C) COORDINATION WITH SECTION 1397E.—Any carryover determined under section 1397E(e)(4) (relating to carryover of unused limitation) with respect to any State to calendar year 2008 shall be treated for purposes of this section as a carryover with respect to such State for such calendar year under subparagraph (A), and the limitation of subparagraph (B) shall apply to such carryover taking into account the calendar years to which such carryover relates.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ZONE ACADEMY.—The term 'qualified zone academy' means any public school (or academic program within a public school) which is established by and operated under the supervision of an eligible local education agency to provide education or training below the postsecondary level if—

''(A) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,

''(B) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the eligible local education agency,

''(C) the comprehensive education plan of such public school or program is approved by the eligible local education agency, and

''(D)(i) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of the enactment of this section), or

''(ii) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

''(2) ELIGIBLE LOCAL EDUCATION AGENCY.—For purposes of this section, the term 'eligible local education agency' means any local educational agency as defined in section 9101 of the Elementary and Secondary Education Act of 1965.

''(3) QUALIFIED PURPOSE.—The term 'qualified purpose' means, with respect to any qualified zone academy—

''(A) rehabilitating or repairing the public school facility in which the academy is established,

''(B) providing equipment for use at such academy,

''(C) developing course materials for education to be provided at such academy, and

''(D) training teachers and other school personnel in such academy.

''(4) QUALIFIED CONTRIBUTIONS.—The term 'qualified contribution' means any contribution (of a type and quality acceptable to the eligible local education agency) of—

''(A) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

''(B) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

''(C) services of employees as volunteer mentors,

''(D) internships, field trips, or other educational opportunities outside the academy for students, or

''(E) any other property or service specified by the eligible local education agency.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d), as amended by sections 106 and 141, is amended by striking ''or'' at the end of subparagraph (B), by inserting ''or'' at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

''(D) a qualified zone academy bond,''.

(2) Subparagraph (C) of section 54A(d)(2), as amended by sections 106 and 141, is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) in the case of a qualified zone academy bond, a purpose specified in section 54E(a)(1).''.

(3) Section 1397E is amended by adding at the end the following new subsection:

''(m) TERMINATION.—This section shall not apply to any obligation issued after the date of the enactment of this Act.''.

(4) The table of sections for subpart I of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54E. Qualified zone academy bonds.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 234. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) DESIGNATION OF ZONE.—

(1) IN GENERAL.—Subsection (f) of section 1400 is amended by striking ''2007'' both places it appears and inserting ''2008''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods beginning after December 31, 2007.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—

(1) IN GENERAL.—Subsection (b) of section 1400A is amended by striking ''2007'' and inserting ''2008''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to bonds issued after December 31, 2007.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking ''2008'' each place it appears and inserting ''2009''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking ''2012'' and inserting ''2013'', and

(ii) by striking ''2012'' in the heading thereof and inserting ''2013''.

(B) Section 1400B(g)(2) is amended by striking ''2012'' and inserting ''2013''.

(C) Section 1400F(d) is amended by striking ''2012'' and inserting ''2013''.

(3) EFFECTIVE DATES.—

(A) EXTENSION.—The amendments made by paragraph (1) shall apply to acquisitions after December 31, 2007.

(B) CONFORMING AMENDMENTS.—The amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

(d) FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (i) of section 1400C is amended by striking ''2008'' and inserting ''2009''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property purchased after December 31, 2007.

SEC. 235. ECONOMIC DEVELOPMENT CREDIT FOR AMERICAN SAMOA.

(a) IN GENERAL.—Subsection (d) of section 119 of division A of the Tax Relief and Health Care Act of 2006 is amended—

(1) by striking ''first two taxable years'' and inserting ''first 3 taxable years'', and

(2) by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 236. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(C) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2007.

SEC. 237. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORY TO PUBLIC SCHOOLS.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(D) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2007.

SEC. 238. ENHANCED DEDUCTION FOR QUALIFIED COMPUTER CONTRIBUTIONS.

(a) IN GENERAL.—Subparagraph (G) of section 170(e)(6) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made during taxable years beginning after December 31, 2007.

SEC. 239. BASIS ADJUSTMENT TO STOCK OF S CORPORATIONS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) IN GENERAL.—The last sentence of section 1367(a)(2) is amended by striking ''December 31, 2007'' and inserting ''December 31, 2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2007.

SEC. 240. WORK OPPORTUNITY TAX CREDIT FOR HURRICANE KATRINA EMPLOYEES.

(a) IN GENERAL.—Paragraph (1) of section 201(b) of the Katrina Emergency Tax Relief Act of 2005 is amended by striking ''2-year'' and inserting ''3-year''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals hired after August 27, 2007.

SEC. 241. SUBPART F EXCEPTION FOR ACTIVE FINANCING INCOME.

(a) EXEMPT INSURANCE INCOME.—Paragraph (10) of section 953(e) (relating to application) is amended—

(1) by striking ''January 1, 2009'' and inserting ''January 1, 2010'', and

(2) by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) EXCEPTION TO TREATMENT AS FOREIGN PERSONAL HOLDING COMPANY INCOME.—Paragraph (9) of section 954(h) (relating to application) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

SEC. 242. LOOK-THRU RULE FOR RELATED CONTROLLED FOREIGN CORPORATIONS.

(a) IN GENERAL.—Subparagraph (C) of section 954(c)(6) (relating to application) is amended by striking ''January 1, 2009'' and inserting ''January 1, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2008, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

SEC. 243. EXPENSING FOR CERTAIN QUALIFIED FILM AND TELEVISION PRODUCTIONS.

(a) IN GENERAL.—Subsection (f) of section 181 is amended by striking ''December 31, 2008'' and inserting ''December 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to productions commencing after December 31, 2008.

SEC. 244. EXTENSION AND MODIFICATION OF DUTY SUSPENSION ON WOOL PRODUCTS; WOOL RESEARCH FUND; WOOL DUTY REFUNDS.

(a) EXTENSION OF TEMPORARY DUTY REDUCTIONS.—Each of the following headings of the Harmonized Tariff Schedule of the United States is amended by striking the date in the effective period column and inserting ''12/31/2014'':

(1) Heading 9902.51.11 (relating to fabrics of worsted wool).

(2) Heading 9902.51.13 (relating to yarn of combed wool).

(3) Heading 9902.51.14 (relating to wool fiber, waste, garnetted stock, combed wool, or wool top).

(4) Heading 9902.51.15 (relating to fabrics of combed wool).

(5) Heading 9902.51.16 (relating to fabrics of combed wool).

(b) EXTENSION OF DUTY REFUNDS AND WOOL RESEARCH TRUST FUND.—

(1) IN GENERAL.—Section 4002(c) of the Wool Suit and Textile Trade Extension Act of 2004 (Public Law 108–429; 118 Stat. 2603) is amended—

(A) in paragraph (3)(C), by striking ''2010'' and inserting ''2015''; and

(B) in paragraph (6)(A), by striking ''through 2009'' and inserting ''through 2014''.

(2) SUNSET.—Section 506(f) of the Trade and Development Act of 2000 (Public 106–200; 114 Stat. 303 (7 U.S.C. 7101 note)) is amended by striking ''2010'' and inserting ''2015''.

Subtitle D—Other Extensions

SEC. 251. AUTHORITY TO DISCLOSE INFORMATION RELATED TO TERRORIST ACTIVITIES MADE PERMANENT.

(a) IN GENERAL.—Subparagraph (C) of section 6103(i)(3) is amended by striking clause (iv).

(b) DISCLOSURE ON REQUEST.—Paragraph (7) of section 6103(i) is amended by striking subparagraph (E).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures after the date of the enactment of this Act.

SEC. 252. AUTHORITY FOR UNDERCOVER OPERATIONS MADE PERMANENT.

(a) IN GENERAL.—Subsection (c) of section 7608 is amended by striking paragraph (6).

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on January 1, 2008.

SEC. 253. INCREASE IN LIMIT ON COVER OVER OF RUM EXCISE TAX TO PUERTO RICO AND THE VIRGIN ISLANDS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distilled spirits brought into the United States after December 31, 2007.

TITLE III—ADDITIONAL RELIEF

Subtitle A—Individual Tax Relief

SEC. 301. ADDITIONAL STANDARD DEDUCTION FOR REAL PROPERTY TAXES FOR NONITEMIZERS.

(a) IN GENERAL.—Section 63(c)(1) (defining standard deduction) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) in the case of any taxable year beginning in 2008, the real property tax deduction.''.

(b) DEFINITION.—Section 63(c) is amended by adding at the end the following new paragraph:

''(7) REAL PROPERTY TAX DEDUCTION.—For purposes of paragraph (1), the real property tax deduction is the lesser of—

''(A) the amount allowable as a deduction under this chapter for State and local taxes described in section 164(a)(1), or

''(B) $350 ($700 in the case of a joint return).

Any taxes taken into account under section 62(a) shall not be taken into account under this paragraph.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 302. $10,000 INCOME THRESHOLD USED TO CALCULATE REFUNDABLE PORTION OF CHILD TAX CREDIT.

(a) IN GENERAL.—Section 24(d) (relating to portion of credit refundable) is amended by adding at the end the following new paragraph:

''(4) SPECIAL RULE FOR 2008.—Notwithstanding paragraph (3), in the case of any taxable year beginning in 2008, the dollar amount in effect for such taxable year under paragraph (1)(B)(i) shall be $10,000.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 303. INCOME AVERAGING FOR AMOUNTS RECEIVED IN CONNECTION WITH THE EXXON VALDEZ LITIGATION.

(a) INCOME AVERAGING OF AMOUNTS RECEIVED FROM THE EXXON VALDEZ LITIGATION.—For purposes of section 1301 of the Internal Revenue Code of 1986—

(1) any qualified taxpayer who receives any qualified settlement income in any taxable year shall be treated as engaged in a fishing

business (determined without regard to the commercial nature of the business), and

(2) such qualified settlement income shall be treated as income attributable to such a fishing business for such taxable year.

(b) CONTRIBUTIONS OF AMOUNTS RECEIVED TO RETIREMENT ACCOUNTS.—

(1) IN GENERAL.—Any qualified taxpayer who receives qualified settlement income during the taxable year may, at any time before the end of the taxable year in which such income was received, make one or more contributions to an eligible retirement plan of which such qualified taxpayer is a beneficiary in an aggregate amount not to exceed the lesser of—

(A) $100,000 (reduced by the amount of qualified settlement income contributed to an eligible retirement plan in prior taxable years pursuant to this subsection), or

(B) the amount of qualified settlement income received by the individual during the taxable year.

(2) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of paragraph (1), a qualified taxpayer shall be deemed to have made a contribution to an eligible retirement plan on the last day of the taxable year in which such income is received if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

(3) TREATMENT OF CONTRIBUTIONS TO ELIGIBLE RETIREMENT PLANS.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to paragraph (1) with respect to qualified settlement income, then—

(A) except as provided in paragraph (4)—

(i) to the extent of such contribution, the qualified settlement income shall not be included in taxable income, and

(ii) for purposes of section 72 of such Code, such contribution shall not be considered to be investment in the contract,

(B) the qualified taxpayer shall, to the extent of the amount of the contribution, be treated—

(i) as having received the qualified settlement income—

(I) in the case of a contribution to an individual retirement plan (as defined under section 7701(a)(37) of such Code), in a distribution described in section 408(d)(3) of such Code, and

(II) in the case of any other eligible retirement plan, in an eligible rollover distribution (as defined under section 402(f)(2) of such Code), and

(ii) as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution,

(C) section 408(d)(3)(B) of the Internal Revenue Code of 1986 shall not apply with respect to amounts treated as a rollover under this paragraph, and

(D) section 408A(c)(3)(B) of the Internal Revenue Code of 1986 shall not apply with respect to amounts contributed to a Roth IRA (as defined under section 408A(b) of such Code) or a designated Roth contribution to an applicable retirement plan (within the meaning of section 402A of such Code) under this paragraph.

(4) SPECIAL RULE FOR ROTH IRAS AND ROTH 401(k)S.—For purposes of the Internal Revenue Code of 1986, if a contribution is made pursuant to paragraph (1) with respect to qualified settlement income to a Roth IRA (as defined under section 408A(b) of such Code) or as a designated Roth contribution to an applicable retirement plan (within the meaning of section 402A of such Code), then—

(A) the qualified settlement income shall be includible in taxable income, and

(B) for purposes of section 72 of such Code, such contribution shall be considered to be investment in the contract.

(5) ELIGIBLE RETIREMENT PLAN.—For purpose of this subsection, the term ''eligible retirement plan'' has the meaning given such term under section 402(c)(8)(B) of the Internal Revenue Code of 1986.

(c) TREATMENT OF QUALIFIED SETTLEMENT INCOME UNDER EMPLOYMENT TAXES.—

(1) SECA.—For purposes of chapter 2 of the Internal Revenue Code of 1986 and section 211 of the Social Security Act, no portion of qualified settlement income received by a qualified taxpayer shall be treated as self-employment income.

(2) FICA.—For purposes of chapter 21 of the Internal Revenue Code of 1986 and section 209 of the Social Security Act, no portion of qualified settlement income received by a qualified taxpayer shall be treated as wages.

(d) QUALIFIED TAXPAYER.—For purposes of this section, the term ''qualified taxpayer'' means—

(1) any individual who is a plaintiff in the civil action *In re Exxon Valdez*, No. 89–095–CV (HRH) (Consolidated) (D. Alaska); or

(2) any individual who is a beneficiary of the estate of such a plaintiff who—

(A) acquired the right to receive qualified settlement income from that plaintiff; and

(B) was the spouse or an immediate relative of that plaintiff.

(e) QUALIFIED SETTLEMENT INCOME.—For purposes of this section, the term ''qualified settlement income'' means any interest and punitive damage awards which are—

(1) otherwise includible in taxable income, and

(2) received (whether as lump sums or periodic payments) in connection with the civil action *In re Exxon Valdez*, No. 89–095–CV (HRH) (Consolidated) (D. Alaska) (whether pre- or post-judgment and whether related to a settlement or judgment).

Subtitle B—Business Related Provisions

SEC. 311. UNIFORM TREATMENT OF ATTORNEY-ADVANCED EXPENSES AND COURT COSTS IN CONTINGENCY FEE CASES.

(a) IN GENERAL.—Section 162 is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

''(q) ATTORNEY-ADVANCED EXPENSES AND COURT COSTS IN CONTINGENCY FEE CASES.—In the case of any expense or court cost which is paid or incurred in the course of the trade or business of practicing law and the repayment of which is contingent on a recovery by judgment or settlement in the action to which such expense or cost relates, the deduction under subsection (a) shall be determined as if such expense or cost was not subject to repayment.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses and costs paid or incurred in taxable years beginning after December 31, 2008.

SEC. 312. PROVISIONS RELATED TO FILM AND TELEVISION PRODUCTIONS.

(a) MODIFICATION OF LIMITATION ON EXPENSING.—Subparagraph (A) of section 181(a)(2) is amended to read as follows:

''(A) IN GENERAL.—Paragraph (1) shall not apply to so much of the aggregate cost of any qualified film or television production as exceeds $15,000,000.''.

(b) MODIFICATIONS TO DEDUCTION FOR DOMESTIC ACTIVITIES.—

(1) DETERMINATION OF W-2 WAGES.—Paragraph (2) of section 199(b) is amended by adding at the end the following new subparagraph:

''(D) SPECIAL RULE FOR QUALIFIED FILM.—In the case of a qualified film, such term shall include compensation for services performed in the United States by actors, production personnel, directors, and producers.''.

(2) DEFINITION OF QUALIFIED FILM.—Paragraph (6) of section 199(c) is amended by adding at the end the following: ''A qualified film shall include any copyrights, trademarks, or other intangibles with respect to such film. The methods and means of distributing a qualified film shall not affect the availability of the deduction under this section.''.

(3) PARTNERSHIPS.—Subparagraph (A) of section 199(d)(1) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) in the case of each partner of a partnership, or shareholder of an S corporation, who owns (directly or indirectly) at least 20 percent of the capital interests in such partnership or of the stock of such S corporation—

''(I) such partner or shareholder shall be treated as having engaged directly in any film produced by such partnership or S corporation, and

''(II) such partnership or S corporation shall be treated as having engaged directly in any film produced by such partner or shareholder.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) EXPENSING.—The amendments made by subsection (a) shall apply to qualified film and television productions commencing after December 31, 2007.

SEC. 313. MODIFICATION OF RATE OF EXCISE TAX ON CERTAIN WOODEN ARROWS DESIGNED FOR USE BY CHILDREN.

(a) IN GENERAL.—Paragraph (2) of section 4161(b) (relating to arrows) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) EXEMPTION FOR CERTAIN WOODEN ARROW SHAFTS.—Subparagraph (A) shall not apply to any shaft consisting of all natural wood with no laminations or artificial means of enhancing the spine of such shaft (whether sold separately or incorporated as part of a finished or unfinished product) of a type used in the manufacture of any arrow which after its assembly—

''(i) measures 5/16 of an inch or less in diameter, and

''(ii) is not suitable for use with a bow described in paragraph (1)(A).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to shafts first sold after the date of enactment of this Act.

Subtitle C—Modification of Penalty on Understatement of Taxpayer's Liability by Tax Return Preparer

SEC. 321. MODIFICATION OF PENALTY ON UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY TAX RETURN PREPARER.

(a) IN GENERAL.—Subsection (a) of section 6694 (relating to understatement due to unreasonable positions) is amended to read as follows:

''(a) UNDERSTATEMENT DUE TO UNREASONABLE POSITIONS.—

''(1) IN GENERAL.—If a tax return preparer—

''(A) prepares any return or claim of refund with respect to which any part of an understatement of liability is due to a position described in paragraph (2), and

''(B) knew (or reasonably should have known) of the position,

such tax return preparer shall pay a penalty with respect to each such return or claim in

an amount equal to the greater of $1,000 or 50 percent of the income derived (or to be derived) by the tax return preparer with respect to the return or claim.

''(2) UNREASONABLE POSITION.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, a position is described in this paragraph unless there is or was substantial authority for the position.

''(B) DISCLOSED POSITIONS.—If the position was disclosed as provided in section 6662(d)(2)(B)(ii)(I) and is not a position to which subparagraph (C) applies, the position is described in this paragraph unless there is a reasonable basis for the position.

''(C) TAX SHELTERS AND REPORTABLE TRANSACTIONS.—If the position is with respect to a tax shelter (as defined in section 6662(d)(2)(C)(ii)) or a reportable transaction to which section 6662A applies, the position is described in this paragraph unless it is reasonable to believe that the position would more likely than not be sustained on its merits.

''(3) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this subsection if it is shown that there is reasonable cause for the understatement and the tax return preparer acted in good faith.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply—

(1) in the case of a position other than a position described in subparagraph (C) of section 6694(a)(2) of the Internal Revenue Code of 1986 (as amended by this section), to returns prepared after May 25, 2007, and

(2) in the case of a position described in such subparagraph (C), to returns prepared for taxable years ending after the date of the enactment of this Act.

Subtitle D—Extension and Expansion of Certain GO Zone Incentives

SEC. 331. CERTAIN GO ZONE INCENTIVES.

(a) USE OF AMENDED INCOME TAX RETURNS TO TAKE INTO ACCOUNT RECEIPT OF CERTAIN HURRICANE-RELATED CASUALTY LOSS GRANTS BY DISALLOWING PREVIOUSLY TAKEN CASUALTY LOSS DEDUCTIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of the Internal Revenue Code of 1986, if a taxpayer claims a deduction for any taxable year with respect to a casualty loss to a principal residence (within the meaning of section 121 of such Code) resulting from Hurricane Katrina, Hurricane Rita, or Hurricane Wilma and in a subsequent taxable year receives a grant under Public Law 109–148, 109–234, or 110–116 as reimbursement for such loss, such taxpayer may elect to file an amended income tax return for the taxable year in which such deduction was allowed (and for any taxable year to which such deduction is carried) and reduce (but not below zero) the amount of such deduction by the amount of such reimbursement.

(2) TIME OF FILING AMENDED RETURN.—Paragraph (1) shall apply with respect to any grant only if any amended income tax returns with respect to such grant are filed not later than the later of—

(A) the due date for filing the tax return for the taxable year in which the taxpayer receives such grant, or

(B) the date which is 1 year after the date of the enactment of this Act.

(3) WAIVER OF PENALTIES AND INTEREST.—Any underpayment of tax resulting from the reduction under paragraph (1) of the amount otherwise allowable as a deduction shall not be subject to any penalty or interest under such Code if such tax is paid not later than 1 year after the filing of the amended return to which such reduction relates.

(b) WAIVER OF DEADLINE ON CONSTRUCTION OF GO ZONE PROPERTY ELIGIBLE FOR BONUS DEPRECIATION.—

(1) IN GENERAL.—Subparagraph (B) of section 1400N(d)(3) is amended to read as follows:

''(B) without regard to 'and before January 1, 2009' in clause (i) thereof, and''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property placed in service after December 31, 2007.

(c) INCLUSION OF CERTAIN COUNTIES IN GULF OPPORTUNITY ZONE FOR PURPOSES OF TAX-EXEMPT BOND FINANCING.—

(1) IN GENERAL.—Subsection (a) of section 1400N is amended by adding at the end the following new paragraph:

''(8) INCLUSION OF CERTAIN COUNTIES.—For purposes of this subsection, the Gulf Opportunity Zone includes Colbert County, Alabama and Dallas County, Alabama.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the provisions of the Gulf Opportunity Zone Act of 2005 to which it relates.

Subtitle E—Other Provisions

SEC. 341. SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION PROGRAM.

(a) REAUTHORIZATION OF THE SECURE RURAL SCHOOLS AND COMMUNITY SELF-DETERMINATION ACT OF 2000.—The Secure Rural Schools and Community Self-Determination Act of 2000 (16 U.S.C. 500 note; Public Law 106–393) is amended by striking sections 1 through 403 and inserting the following:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Secure Rural Schools and Community Self-Determination Act of 2000'.

''SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to stabilize and transition payments to counties to provide funding for schools and roads that supplements other available funds;

''(2) to make additional investments in, and create additional employment opportunities through, projects that—

''(A)(i) improve the maintenance of existing infrastructure;

''(ii) implement stewardship objectives that enhance forest ecosystems; and

''(iii) restore and improve land health and water quality;

''(B) enjoy broad-based support; and

''(C) have objectives that may include—

''(i) road, trail, and infrastructure maintenance or obliteration;

''(ii) soil productivity improvement;

''(iii) improvements in forest ecosystem health;

''(iv) watershed restoration and maintenance;

''(v) the restoration, maintenance, and improvement of wildlife and fish habitat;

''(vi) the control of noxious and exotic weeds; and

''(vii) the reestablishment of native species; and

''(3) to improve cooperative relationships among—

''(A) the people that use and care for Federal land; and

''(B) the agencies that manage the Federal land.

''SEC. 3. DEFINITIONS.

''In this Act:

''(1) ADJUSTED SHARE.—The term 'adjusted share' means the number equal to the quotient obtained by dividing—

''(A) the number equal to the quotient obtained by dividing—

''(i) the base share for the eligible county; by

''(ii) the income adjustment for the eligible county; by

''(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (8)(A) for all eligible counties.

''(2) BASE SHARE.—The term 'base share' means the number equal to the average of—

''(A) the quotient obtained by dividing—

''(i) the number of acres of Federal land described in paragraph (7)(A) in each eligible county; by

''(ii) the total number acres of Federal land in all eligible counties in all eligible States; and

''(B) the quotient obtained by dividing—

''(i) the amount equal to the average of the 3 highest 25-percent payments and safety net payments made to each eligible State for each eligible county during the eligibility period; by

''(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (9)(B)(i) for all eligible counties in all eligible States during the eligibility period.

''(3) COUNTY PAYMENT.—The term 'county payment' means the payment for an eligible county calculated under section 101(b).

''(4) ELIGIBLE COUNTY.—The term 'eligible county' means any county that—

''(A) contains Federal land (as defined in paragraph (7)); and

''(B) elects to receive a share of the State payment or the county payment under section 102(b).

''(5) ELIGIBILITY PERIOD.—The term 'eligibility period' means fiscal year 1986 through fiscal year 1999.

''(6) ELIGIBLE STATE.—The term 'eligible State' means a State or territory of the United States that received a 25-percent payment for 1 or more fiscal years of the eligibility period.

''(7) FEDERAL LAND.—The term 'Federal land' means—

''(A) land within the National Forest System, as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)) exclusive of the National Grasslands and land utilization projects designated as National Grasslands administered pursuant to the Act of July 22, 1937 (7 U.S.C. 1010–1012); and

''(B) such portions of the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant land as are or may hereafter come under the jurisdiction of the Department of the Interior, which have heretofore or may hereafter be classified as timberlands, and power-site land valuable for timber, that shall be managed, except as provided in the former section 3 of the Act of August 28, 1937 (50 Stat. 875; 43 U.S.C. 1181c), for permanent forest production.

''(8) 50-PERCENT ADJUSTED SHARE.—The term '50-percent adjusted share' means the number equal to the quotient obtained by dividing—

''(A) the number equal to the quotient obtained by dividing—

''(i) the 50-percent base share for the eligible county; by

''(ii) the income adjustment for the eligible county; by

''(B) the number equal to the sum of the quotients obtained under subparagraph (A) and paragraph (1)(A) for all eligible counties.

''(9) 50-PERCENT BASE SHARE.—The term '50-percent base share' means the number equal to the average of—

''(A) the quotient obtained by dividing—

''(i) the number of acres of Federal land described in paragraph (7)(B) in each eligible county; by

''(ii) the total number acres of Federal land in all eligible counties in all eligible States; and

''(B) the quotient obtained by dividing—

''(i) the amount equal to the average of the 3 highest 50-percent payments made to each

eligible county during the eligibility period; by

''(ii) the amount equal to the sum of the amounts calculated under clause (i) and paragraph (2)(B)(i) for all eligible counties in all eligible States during the eligibility period.

''(10) 50-PERCENT PAYMENT.—The term '50-percent payment' means the payment that is the sum of the 50-percent share otherwise paid to a county pursuant to title II of the Act of August 28, 1937 (chapter 876; 50 Stat. 875; 43 U.S.C. 1181f), and the payment made to a county pursuant to the Act of May 24, 1939 (chapter 144; 53 Stat. 753; 43 U.S.C. 1181f–1 et seq.).

''(11) FULL FUNDING AMOUNT.—The term 'full funding amount' means—

''(A) $500,000,000 for fiscal year 2008; and

''(B) for fiscal year 2009 and each fiscal year thereafter, the amount that is equal to 90 percent of the full funding amount for the preceding fiscal year.

''(12) INCOME ADJUSTMENT.—The term 'income adjustment' means the square of the quotient obtained by dividing—

''(A) the per capita personal income for each eligible county; by

''(B) the median per capita personal income of all eligible counties.

''(13) PER CAPITA PERSONAL INCOME.—The term 'per capita personal income' means the most recent per capita personal income data, as determined by the Bureau of Economic Analysis.

''(14) SAFETY NET PAYMENTS.—The term 'safety net payments' means the special payment amounts paid to States and counties required by section 13982 or 13983 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 16 U.S.C. 500 note; 43 U.S.C. 1181f note).

''(15) SECRETARY CONCERNED.—The term 'Secretary concerned' means—

''(A) the Secretary of Agriculture or the designee of the Secretary of Agriculture with respect to the Federal land described in paragraph (7)(A); and

''(B) the Secretary of the Interior or the designee of the Secretary of the Interior with respect to the Federal land described in paragraph (7)(B).

''(16) STATE PAYMENT.—The term 'State payment' means the payment for an eligible State calculated under section 101(a).

''(17) 25-PERCENT PAYMENT.—The term '25-percent payment' means the payment to States required by the sixth paragraph under the heading of 'FOREST SERVICE' in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

''TITLE I—SECURE PAYMENTS FOR STATES AND COUNTIES CONTAINING FEDERAL LAND

''SEC. 101. SECURE PAYMENTS FOR STATES CONTAINING FEDERAL LAND.

''(a) STATE PAYMENT.—For each of fiscal years 2008 through 2011, the Secretary of Agriculture shall calculate for each eligible State an amount equal to the sum of the products obtained by multiplying—

''(1) the adjusted share for each eligible county within the eligible State; by

''(2) the full funding amount for the fiscal year.

''(b) COUNTY PAYMENT.—For each of fiscal years 2008 through 2011, the Secretary of the Interior shall calculate for each eligible county that received a 50-percent payment during the eligibility period an amount equal to the product obtained by multiplying—

''(1) the 50-percent adjusted share for the eligible county; by

''(2) the full funding amount for the fiscal year.

''SEC. 102. PAYMENTS TO STATES AND COUNTIES.

''(a) PAYMENT AMOUNTS.—Except as provided in section 103, the Secretary of the Treasury shall pay to—

''(1) a State or territory of the United States an amount equal to the sum of the amounts elected under subsection (b) by each county within the State or territory for—

''(A) if the county is eligible for the 25-percent payment, the share of the 25-percent payment; or

''(B) the share of the State payment of the eligible county; and

''(2) a county an amount equal to the amount elected under subsection (b) by each county for—

''(A) if the county is eligible for the 50-percent payment, the 50-percent payment; or

''(B) the county payment for the eligible county.

''(b) ELECTION TO RECEIVE PAYMENT AMOUNT.—

''(1) ELECTION; SUBMISSION OF RESULTS.—

''(A) IN GENERAL.—The election to receive a share of the State payment, the county payment, a share of the State payment and the county payment, a share of the 25-percent payment, the 50-percent payment, or a share of the 25-percent payment and the 50-percent payment, as applicable, shall be made at the discretion of each affected county by August 1, 2008, and August 1 of each second fiscal year thereafter, in accordance with paragraph (2), and transmitted to the Secretary concerned by the Governor of each eligible State.

''(B) FAILURE TO TRANSMIT.—If an election for an affected county is not transmitted to the Secretary concerned by the date specified under subparagraph (A), the affected county shall be considered to have elected to receive a share of the State payment, the county payment, or a share of the State payment and the county payment, as applicable.

''(2) DURATION OF ELECTION.—

''(A) IN GENERAL.—A county election to receive a share of the 25-percent payment or 50-percent payment, as applicable, shall be effective for 2 fiscal years.

''(B) FULL FUNDING AMOUNT.—If a county elects to receive a share of the State payment or the county payment, the election shall be effective for all subsequent fiscal years through fiscal year 2011.

''(3) SOURCE OF PAYMENT AMOUNTS.—The payment to an eligible State or eligible county under this section for a fiscal year shall be derived from—

''(A) any amounts that are appropriated to carry out this Act;

''(B) any revenues, fees, penalties, or miscellaneous receipts, exclusive of deposits to any relevant trust fund, special account, or permanent operating funds, received by the Federal Government from activities by the Bureau of Land Management or the Forest Service on the applicable Federal land; and

''(C) to the extent of any shortfall, out of any amounts in the Treasury of the United States not otherwise appropriated.

''(c) DISTRIBUTION AND EXPENDITURE OF PAYMENTS.—

''(1) DISTRIBUTION METHOD.—A State that receives a payment under subsection (a) for Federal land described in section 3(7)(A) shall distribute the appropriate payment amount among the appropriate counties in the State in accordance with—

''(A) the Act of May 23, 1908 (16 U.S.C. 500); and

''(B) section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500).

''(2) EXPENDITURE PURPOSES.—Subject to subsection (d), payments received by a State under subsection (a) and distributed to counties in accordance with paragraph (1) shall be expended as required by the laws referred to in paragraph (1).

''(d) EXPENDITURE RULES FOR ELIGIBLE COUNTIES.—

''(1) ALLOCATIONS.—

''(A) USE OF PORTION IN SAME MANNER AS 25-PERCENT PAYMENT OR 50-PERCENT PAYMENT, AS APPLICABLE.—Except as provided in paragraph (3)(B), if an eligible county elects to receive its share of the State payment or the county payment, not less than 80 percent, but not more than 85 percent, of the funds shall be expended in the same manner in which the 25-percent payments or 50-percent payment, as applicable, are required to be expended.

''(B) ELECTION AS TO USE OF BALANCE.—Except as provided in subparagraph (C), an eligible county shall elect to do 1 or more of the following with the balance of any funds not expended pursuant to subparagraph (A):

''(i) Reserve any portion of the balance for projects in accordance with title II.

''(ii) Reserve not more than 7 percent of the total share for the eligible county of the State payment or the county payment for projects in accordance with title III.

''(iii) Return the portion of the balance not reserved under clauses (i) and (ii) to the Treasury of the United States.

''(C) COUNTIES WITH MODEST DISTRIBUTIONS.—In the case of each eligible county to which more than $100,000, but less than $350,000, is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county, with respect to the balance of any funds not expended pursuant to subparagraph (A) for that fiscal year, shall—

''(i) reserve any portion of the balance for—

''(I) carrying out projects under title II;

''(II) carrying out projects under title III; or

''(III) a combination of the purposes described in subclauses (I) and (II); or

''(ii) return the portion of the balance not reserved under clause (i) to the Treasury of the United States.

''(2) DISTRIBUTION OF FUNDS.—

''(A) IN GENERAL.—Funds reserved by an eligible county under subparagraph (B)(i) or (C)(i) of paragraph (1) for carrying out projects under title II shall be deposited in a special account in the Treasury of the United States.

''(B) AVAILABILITY.—Amounts deposited under subparagraph (A) shall—

''(i) be available for expenditure by the Secretary concerned, without further appropriation; and

''(ii) remain available until expended in accordance with title II.

''(3) ELECTION.—

''(A) NOTIFICATION.—

''(i) IN GENERAL.—An eligible county shall notify the Secretary concerned of an election by the eligible county under this subsection not later than September 30 of each fiscal year.

''(ii) FAILURE TO ELECT.—Except as provided in subparagraph (B), if the eligible county fails to make an election by the date specified in clause (i), the eligible county shall—

''(I) be considered to have elected to expend 85 percent of the funds in accordance with paragraph (1)(A); and

''(II) return the balance to the Treasury of the United States.

''(B) COUNTIES WITH MINOR DISTRIBUTIONS.—In the case of each eligible county to which less than $100,000 is distributed for any fiscal year pursuant to either or both of paragraphs (1)(B) and (2)(B) of subsection (a), the eligible county may elect to expend all the funds in the same manner in which the 25-percent payments or 50-percent payments, as applicable, are required to be expended.

''(e) TIME FOR PAYMENT.—The payments required under this section for a fiscal year shall be made as soon as practicable after the end of that fiscal year.

"SEC. 103. TRANSITION PAYMENTS TO STATES.

''(a) DEFINITIONS.—In this section:

''(1) ADJUSTED AMOUNT.—The term 'adjusted amount' means, with respect to a covered State—

''(A) for fiscal year 2008, 90 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2008; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2008;

''(B) for fiscal year 2009, 76 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2009; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2009; and

''(C) for fiscal year 2010, 65 percent of—

''(i) the sum of the amounts paid for fiscal year 2006 under section 102(a)(2) (as in effect on September 29, 2006) for the eligible counties in the covered State that have elected under section 102(b) to receive a share of the State payment for fiscal year 2010; and

''(ii) the sum of the amounts paid for fiscal year 2006 under section 103(a)(2) (as in effect on September 29, 2006) for the eligible counties in the State of Oregon that have elected under section 102(b) to receive the county payment for fiscal year 2010.

''(2) COVERED STATE.—The term 'covered State' means each of the States of California, Louisiana, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, and Washington.

''(b) TRANSITION PAYMENTS.—For each of fiscal years 2008 through 2010, in lieu of the payment amounts that otherwise would have been made under paragraphs (1)(B) and (2)(B) of section 102(a), the Secretary of the Treasury shall pay the adjusted amount to each covered State and the eligible counties within the covered State, as applicable.

''(c) DISTRIBUTION OF ADJUSTED AMOUNT.—Except as provided in subsection (d), it is the intent of Congress that the method of distributing the payments under subsection (b) among the counties in the covered States for each of fiscal years 2008 through 2010 be in the same proportion that the payments were distributed to the eligible counties in fiscal year 2006.

''(d) DISTRIBUTION OF PAYMENTS IN CALIFORNIA.—The following payments shall be distributed among the eligible counties in the State of California in the same proportion that payments under section 102(a)(2) (as in effect on September 29, 2006) were distributed to the eligible counties for fiscal year 2006:

''(1) Payments to the State of California under subsection (b).

''(2) The shares of the eligible counties of the State payment for California under section 102 for fiscal year 2011.

''(e) TREATMENT OF PAYMENTS.—For purposes of this Act, any payment made under subsection (b) shall be considered to be a payment made under section 102(a).

"TITLE II—SPECIAL PROJECTS ON FEDERAL LAND

"SEC. 201. DEFINITIONS.

''In this title:

''(1) PARTICIPATING COUNTY.—The term 'participating county' means an eligible county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

''(2) PROJECT FUNDS.—The term 'project funds' means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

''(3) RESOURCE ADVISORY COMMITTEE.—The term 'resource advisory committee' means—

''(A) an advisory committee established by the Secretary concerned under section 205; or

''(B) an advisory committee determined by the Secretary concerned to meet the requirements of section 205.

''(4) RESOURCE MANAGEMENT PLAN.—The term 'resource management plan' means—

''(A) a land use plan prepared by the Bureau of Land Management for units of the Federal land described in section 3(7)(B) pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); or

''(B) a land and resource management plan prepared by the Forest Service for units of the National Forest System pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 19741 (16 U.S.C. 1604).

"SEC. 202. GENERAL LIMITATION ON USE OF PROJECT FUNDS.

''(a) LIMITATION.—Project funds shall be expended solely on projects that meet the requirements of this title.

''(b) AUTHORIZED USES.—Project funds may be used by the Secretary concerned for the purpose of entering into and implementing cooperative agreements with willing Federal agencies, State and local governments, private and nonprofit entities, and landowners for protection, restoration, and enhancement of fish and wildlife habitat, and other resource objectives consistent with the purposes of this Act on Federal land and on non-Federal land where projects would benefit the resources on Federal land.

"SEC. 203. SUBMISSION OF PROJECT PROPOSALS.

''(a) SUBMISSION OF PROJECT PROPOSALS TO SECRETARY CONCERNED.—

''(1) PROJECTS FUNDED USING PROJECT FUNDS.—Not later than September 30 for fiscal year 2008, and each September 30 thereafter for each succeeding fiscal year through fiscal year 2011, each resource advisory committee shall submit to the Secretary concerned a description of any projects that the resource advisory committee proposes the Secretary undertake using any project funds reserved by eligible counties in the area in which the resource advisory committee has geographic jurisdiction.

''(2) PROJECTS FUNDED USING OTHER FUNDS.—A resource advisory committee may submit to the Secretary concerned a description of any projects that the committee proposes the Secretary undertake using funds from State or local governments, or from the private sector, other than project funds and funds appropriated and otherwise available to do similar work.

''(3) JOINT PROJECTS.—Participating counties or other persons may propose to pool project funds or other funds, described in paragraph (2), and jointly propose a project or group of projects to a resource advisory committee established under section 205.

''(b) REQUIRED DESCRIPTION OF PROJECTS.—In submitting proposed projects to the Secretary concerned under subsection (a), a resource advisory committee shall include in the description of each proposed project the following information:

''(1) The purpose of the project and a description of how the project will meet the purposes of this title.

''(2) The anticipated duration of the project.

''(3) The anticipated cost of the project.

''(4) The proposed source of funding for the project, whether project funds or other funds.

''(5)(A) Expected outcomes, including how the project will meet or exceed desired ecological conditions, maintenance objectives, or stewardship objectives.

''(B) An estimate of the amount of any timber, forage, and other commodities and other economic activity, including jobs generated, if any, anticipated as part of the project.

''(6) A detailed monitoring plan, including funding needs and sources, that—

''(A) tracks and identifies the positive or negative impacts of the project, implementation, and provides for validation monitoring; and

''(B) includes an assessment of the following:

''(i) Whether or not the project met or exceeded desired ecological conditions; created local employment or training opportunities, including summer youth jobs programs such as the Youth Conservation Corps where appropriate.

''(ii) Whether the project improved the use of, or added value to, any products removed from land consistent with the purposes of this title.

''(7) An assessment that the project is to be in the public interest.

''(c) AUTHORIZED PROJECTS.—Projects proposed under subsection (a) shall be consistent with section 2.

"SEC. 204. EVALUATION AND APPROVAL OF PROJECTS BY SECRETARY CONCERNED.

''(a) CONDITIONS FOR APPROVAL OF PROPOSED PROJECT.—The Secretary concerned may make a decision to approve a project submitted by a resource advisory committee under section 203 only if the proposed project satisfies each of the following conditions:

''(1) The project complies with all applicable Federal laws (including regulations).

''(2) The project is consistent with the applicable resource management plan and with any watershed or subsequent plan developed pursuant to the resource management plan and approved by the Secretary concerned.

''(3) The project has been approved by the resource advisory committee in accordance with section 205, including the procedures issued under subsection (e) of that section.

''(4) A project description has been submitted by the resource advisory committee to the Secretary concerned in accordance with section 203.

''(5) The project will improve the maintenance of existing infrastructure, implement stewardship objectives that enhance forest ecosystems, and restore and improve land health and water quality.

''(b) ENVIRONMENTAL REVIEWS.—

''(1) REQUEST FOR PAYMENT BY COUNTY.—The Secretary concerned may request the resource advisory committee submitting a proposed project to agree to the use of project funds to pay for any environmental review, consultation, or compliance with applicable environmental laws required in connection with the project.

''(2) CONDUCT OF ENVIRONMENTAL REVIEW.—If a payment is requested under paragraph (1) and the resource advisory committee agrees to the expenditure of funds for this purpose, the Secretary concerned shall conduct environmental review, consultation, or other compliance responsibilities in accordance with Federal laws (including regulations).

''(3) EFFECT OF REFUSAL TO PAY.—

''(A) IN GENERAL.—If a resource advisory committee does not agree to the expenditure of funds under paragraph (1), the project shall be deemed withdrawn from further consideration by the Secretary concerned pursuant to this title.

''(B) EFFECT OF WITHDRAWAL.—A withdrawal under subparagraph (A) shall be deemed to be a rejection of the project for purposes of section 207(c).

''(c) DECISIONS OF SECRETARY CONCERNED.—

''(1) REJECTION OF PROJECTS.—

''(A) IN GENERAL.—A decision by the Secretary concerned to reject a proposed project shall be at the sole discretion of the Secretary concerned.

''(B) NO ADMINISTRATIVE APPEAL OR JUDICIAL REVIEW.—Notwithstanding any other provision of law, a decision by the Secretary concerned to reject a proposed project shall not be subject to administrative appeal or judicial review.

''(C) NOTICE OF REJECTION.—Not later than 30 days after the date on which the Secretary concerned makes the rejection decision, the Secretary concerned shall notify in writing the resource advisory committee that submitted the proposed project of the rejection and the reasons for rejection.

''(2) NOTICE OF PROJECT APPROVAL.—The Secretary concerned shall publish in the Federal Register notice of each project approved under subsection (a) if the notice would be required had the project originated with the Secretary.

''(d) SOURCE AND CONDUCT OF PROJECT.—Once the Secretary concerned accepts a project for review under section 203, the acceptance shall be deemed a Federal action for all purposes.

''(e) IMPLEMENTATION OF APPROVED PROJECTS.—

''(1) COOPERATION.—Notwithstanding chapter 63 of title 31, United States Code, using project funds the Secretary concerned may enter into contracts, grants, and cooperative agreements with States and local governments, private and nonprofit entities, and landowners and other persons to assist the Secretary in carrying out an approved project.

''(2) BEST VALUE CONTRACTING.—

''(A) IN GENERAL.—For any project involving a contract authorized by paragraph (1) the Secretary concerned may elect a source for performance of the contract on a best value basis.

''(B) FACTORS.—The Secretary concerned shall determine best value based on such factors as—

''(i) the technical demands and complexity of the work to be done;

''(ii)(I) the ecological objectives of the project; and

''(II) the sensitivity of the resources being treated;

''(iii) the past experience by the contractor with the type of work being done, using the type of equipment proposed for the project, and meeting or exceeding desired ecological conditions; and

''(iv) the commitment of the contractor to hiring highly qualified workers and local residents.

''(3) MERCHANTABLE TIMBER CONTRACTING PILOT PROGRAM.—

''(A) ESTABLISHMENT.—The Secretary concerned shall establish a pilot program to implement a certain percentage of approved projects involving the sale of merchantable timber using separate contracts for—

''(i) the harvesting or collection of merchantable timber; and

''(ii) the sale of the timber.

''(B) ANNUAL PERCENTAGES.—Under the pilot program, the Secretary concerned shall ensure that, on a nationwide basis, not less than the following percentage of all approved projects involving the sale of merchantable timber are implemented using separate contracts:

''(i) For fiscal year 2008, 35 percent.

''(ii) For fiscal year 2009, 45 percent.

''(iii) For each of fiscal years 2010 and 2011, 50 percent.

''(C) INCLUSION IN PILOT PROGRAM.—The decision whether to use separate contracts to implement a project involving the sale of merchantable timber shall be made by the Secretary concerned after the approval of the project under this title.

''(D) ASSISTANCE.—

''(i) IN GENERAL.—The Secretary concerned may use funds from any appropriated account available to the Secretary for the Federal land to assist in the administration of projects conducted under the pilot program.

''(ii) MAXIMUM AMOUNT OF ASSISTANCE.—The total amount obligated under this subparagraph may not exceed $1,000,000 for any fiscal year during which the pilot program is in effect.

''(E) REVIEW AND REPORT.—

''(i) INITIAL REPORT.—Not later than September 30, 2010, the Comptroller General shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives a report assessing the pilot program.

''(ii) ANNUAL REPORT.—The Secretary concerned shall submit to the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate and the Committees on Agriculture and Natural Resources of the House of Representatives an annual report describing the results of the pilot program.

''(f) REQUIREMENTS FOR PROJECT FUNDS.—The Secretary shall ensure that at least 50 percent of all project funds be used for projects that are primarily dedicated—

''(1) to road maintenance, decommissioning, or obliteration; or

''(2) to restoration of streams and watersheds.

''SEC. 205. RESOURCE ADVISORY COMMITTEES.

''(a) ESTABLISHMENT AND PURPOSE OF RESOURCE ADVISORY COMMITTEES.—

''(1) ESTABLISHMENT.—The Secretary concerned shall establish and maintain resource advisory committees to perform the duties in subsection (b), except as provided in paragraph (4).

''(2) PURPOSE.—The purpose of a resource advisory committee shall be—

''(A) to improve collaborative relationships; and

''(B) to provide advice and recommendations to the land management agencies consistent with the purposes of this title.

''(3) ACCESS TO RESOURCE ADVISORY COMMITTEES.—To ensure that each unit of Federal land has access to a resource advisory committee, and that there is sufficient interest in participation on a committee to ensure that membership can be balanced in terms of the points of view represented and the functions to be performed, the Secretary concerned may, establish resource advisory committees for part of, or 1 or more, units of Federal land.

''(4) EXISTING ADVISORY COMMITTEES.—

''(A) IN GENERAL.—An advisory committee that meets the requirements of this section, a resource advisory committee established before September 29, 2006, or an advisory committee determined by the Secretary concerned before September 29, 2006, to meet the requirements of this section may be deemed by the Secretary concerned to be a resource advisory committee for the purposes of this title.

''(B) CHARTER.—A charter for a committee described in subparagraph (A) that was filed on or before September 29, 2006, shall be considered to be filed for purposes of this Act.

''(C) BUREAU OF LAND MANAGEMENT ADVISORY COMMITTEES.—The Secretary of the Interior may deem a resource advisory committee meeting the requirements of subpart 1784 of part 1780 of title 43, Code of Federal Regulations, as a resource advisory committee for the purposes of this title.

''(b) DUTIES.—A resource advisory committee shall—

''(1) review projects proposed under this title by participating counties and other persons;

''(2) propose projects and funding to the Secretary concerned under section 203;

''(3) provide early and continuous coordination with appropriate land management agency officials in recommending projects consistent with purposes of this Act under this title;

''(4) provide frequent opportunities for citizens, organizations, tribes, land management agencies, and other interested parties to participate openly and meaningfully, beginning at the early stages of the project development process under this title;

''(5)(A) monitor projects that have been approved under section 204; and

''(B) advise the designated Federal official on the progress of the monitoring efforts under subparagraph (A); and

''(6) make recommendations to the Secretary concerned for any appropriate changes or adjustments to the projects being monitored by the resource advisory committee.

''(c) APPOINTMENT BY THE SECRETARY.—

''(1) APPOINTMENT AND TERM.—

''(A) IN GENERAL.—The Secretary concerned, shall appoint the members of resource advisory committees for a term of 4 years beginning on the date of appointment.

''(B) REAPPOINTMENT.—The Secretary concerned may reappoint members to subsequent 4-year terms.

''(2) BASIC REQUIREMENTS.—The Secretary concerned shall ensure that each resource advisory committee established meets the requirements of subsection (d).

''(3) INITIAL APPOINTMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary concerned shall make initial appointments to the resource advisory committees.

''(4) VACANCIES.—The Secretary concerned shall make appointments to fill vacancies on any resource advisory committee as soon as practicable after the vacancy has occurred.

''(5) COMPENSATION.—Members of the resource advisory committees shall not receive any compensation.

''(d) COMPOSITION OF ADVISORY COMMITTEE.—

''(1) NUMBER.—Each resource advisory committee shall be comprised of 15 members.

''(2) COMMUNITY INTERESTS REPRESENTED.—Committee members shall be representative of the interests of the following 3 categories:

''(A) 5 persons that—

''(i) represent organized labor or non-timber forest product harvester groups;

''(ii) represent developed outdoor recreation, off highway vehicle users, or commercial recreation activities;

''(iii) represent—

''(I) energy and mineral development interests; or

''(II) commercial or recreational fishing interests;

''(iv) represent the commercial timber industry; or

''(v) hold Federal grazing or other land use permits, or represent nonindustrial private forest land owners, within the area for which the committee is organized.

''(B) 5 persons that represent—

''(i) nationally recognized environmental organizations;

''(ii) regionally or locally recognized environmental organizations;

''(iii) dispersed recreational activities;

''(iv) archaeological and historical interests; or

''(v) nationally or regionally recognized wild horse and burro interest groups, wildlife or hunting organizations, or watershed associations.

''(C) 5 persons that—

''(i) hold State elected office (or a designee);

''(ii) hold county or local elected office;

''(iii) represent American Indian tribes within or adjacent to the area for which the committee is organized;

''(iv) are school officials or teachers; or

''(v) represent the affected public at large.

''(3) BALANCED REPRESENTATION.—In appointing committee members from the 3 categories in paragraph (2), the Secretary concerned shall provide for balanced and broad representation from within each category.

''(4) GEOGRAPHIC DISTRIBUTION.—The members of a resource advisory committee shall reside within the State in which the committee has jurisdiction and, to extent practicable, the Secretary concerned shall ensure local representation in each category in paragraph (2).

''(5) CHAIRPERSON.—A majority on each resource advisory committee shall select the chairperson of the committee.

''(e) APPROVAL PROCEDURES.—

''(1) IN GENERAL.—Subject to paragraph (3), each resource advisory committee shall establish procedures for proposing projects to the Secretary concerned under this title.

''(2) QUORUM.—A quorum must be present to constitute an official meeting of the committee.

''(3) APPROVAL BY MAJORITY OF MEMBERS.—A project may be proposed by a resource advisory committee to the Secretary concerned under section 203(a), if the project has been approved by a majority of members of the committee from each of the 3 categories in subsection (d)(2).

''(f) OTHER COMMITTEE AUTHORITIES AND REQUIREMENTS.—

''(1) STAFF ASSISTANCE.—A resource advisory committee may submit to the Secretary concerned a request for periodic staff assistance from Federal employees under the jurisdiction of the Secretary.

''(2) MEETINGS.—All meetings of a resource advisory committee shall be announced at least 1 week in advance in a local newspaper of record and shall be open to the public.

''(3) RECORDS.—A resource advisory committee shall maintain records of the meetings of the committee and make the records available for public inspection.

''SEC. 206. USE OF PROJECT FUNDS.

''(a) AGREEMENT REGARDING SCHEDULE AND COST OF PROJECT.—

''(1) AGREEMENT BETWEEN PARTIES.—The Secretary concerned may carry out a project submitted by a resource advisory committee under section 203(a) using project funds or other funds described in section 203(a)(2), if, as soon as practicable after the issuance of a decision document for the project and the exhaustion of all administrative appeals and judicial review of the project decision, the Secretary concerned and the resource advisory committee enter into an agreement addressing, at a minimum, the following:

''(A) The schedule for completing the project.

''(B) The total cost of the project, including the level of agency overhead to be assessed against the project.

''(C) For a multiyear project, the estimated cost of the project for each of the fiscal years in which it will be carried out.

''(D) The remedies for failure of the Secretary concerned to comply with the terms of the agreement consistent with current Federal law.

''(2) LIMITED USE OF FEDERAL FUNDS.—The Secretary concerned may decide, at the sole discretion of the Secretary concerned, to cover the costs of a portion of an approved project using Federal funds appropriated or otherwise available to the Secretary for the same purposes as the project.

''(b) TRANSFER OF PROJECT FUNDS.—

''(1) INITIAL TRANSFER REQUIRED.—As soon as practicable after the agreement is reached under subsection (a) with regard to a project to be funded in whole or in part using project funds, or other funds described in section 203(a)(2), the Secretary concerned shall transfer to the applicable unit of National Forest System land or Bureau of Land Management District an amount of project funds equal to—

''(A) in the case of a project to be completed in a single fiscal year, the total amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2); or

''(B) in the case of a multiyear project, the amount specified in the agreement to be paid using project funds, or other funds described in section 203(a)(2) for the first fiscal year.

''(2) CONDITION ON PROJECT COMMENCEMENT.—The unit of National Forest System land or Bureau of Land Management District concerned, shall not commence a project until the project funds, or other funds described in section 203(a)(2) required to be transferred under paragraph (1) for the project, have been made available by the Secretary concerned.

''(3) SUBSEQUENT TRANSFERS FOR MULTI YEAR PROJECTS.—

''(A) IN GENERAL.—For the second and subsequent fiscal years of a multiyear project to be funded in whole or in part using project funds, the unit of National Forest System land or Bureau of Land Management District concerned shall use the amount of project funds required to continue the project in that fiscal year according to the agreement entered into under subsection (a).

''(B) SUSPENSION OF WORK.—The Secretary concerned shall suspend work on the project if the project funds required by the agreement in the second and subsequent fiscal years are not available.

''SEC. 207. AVAILABILITY OF PROJECT FUNDS.

''(a) SUBMISSION OF PROPOSED PROJECTS TO OBLIGATE FUNDS.—By September 30 of each fiscal year through fiscal year 2011, a resource advisory committee shall submit to the Secretary concerned pursuant to section 203(a)(1) a sufficient number of project proposals that, if approved, would result in the obligation of at least the full amount of the project funds reserved by the participating county in the preceding fiscal year.

''(b) USE OR TRANSFER OF UNOBLIGATED FUNDS.—Subject to section 208, if a resource advisory committee fails to comply with subsection (a) for a fiscal year, any project funds reserved by the participating county in the preceding fiscal year and remaining unobligated shall be available for use as part of the project submissions in the next fiscal year.

''(c) EFFECT OF REJECTION OF PROJECTS.—Subject to section 208, any project funds reserved by a participating county in the preceding fiscal year that are unobligated at the end of a fiscal year because the Secretary concerned has rejected one or more proposed projects shall be available for use as part of the project submissions in the next fiscal year.

''(d) EFFECT OF COURT ORDERS.—

''(1) IN GENERAL.—If an approved project under this Act is enjoined or prohibited by a Federal court, the Secretary concerned shall return the unobligated project funds related to the project to the participating county or counties that reserved the funds.

''(2) EXPENDITURE OF FUNDS.—The returned funds shall be available for the county to expend in the same manner as the funds reserved by the county under subparagraph (B) or (C)(i) of section 102(d)(1).

''SEC. 208. TERMINATION OF AUTHORITY.

''(a) IN GENERAL.—The authority to initiate projects under this title shall terminate on September 30, 2011.

''(b) DEPOSITS IN TREASURY.—Any project funds not obligated by September 30, 2012, shall be deposited in the Treasury of the United States.

''TITLE III—COUNTY FUNDS

''SEC. 301. DEFINITIONS.

''In this title:

''(1) COUNTY FUNDS.—The term 'county funds' means all funds an eligible county elects under section 102(d) to reserve for expenditure in accordance with this title.

''(2) PARTICIPATING COUNTY.—The term 'participating county' means an eligible county that elects under section 102(d) to expend a portion of the Federal funds received under section 102 in accordance with this title.

''SEC. 302. USE.

''(a) AUTHORIZED USES.—A participating county, including any applicable agencies of the participating county, shall use county funds, in accordance with this title, only—

''(1) to carry out activities under the Firewise Communities program to provide to homeowners in fire-sensitive ecosystems education on, and assistance with implementing, techniques in home siting, home construction, and home landscaping that can increase the protection of people and property from wildfires;

''(2) to reimburse the participating county for search and rescue and other emergency services, including firefighting, that are—

''(A) performed on Federal land after the date on which the use was approved under subsection (b);

''(B) paid for by the participating county; and

''(3) to develop community wildfire protection plans in coordination with the appropriate Secretary concerned.

''(b) PROPOSALS.—A participating county shall use county funds for a use described in subsection (a) only after a 45-day public comment period, at the beginning of which the participating county shall—

''(1) publish in any publications of local record a proposal that describes the proposed use of the county funds; and

''(2) submit the proposal to any resource advisory committee established under section 205 for the participating county.

''SEC. 303. CERTIFICATION.

''(a) IN GENERAL.—Not later than February 1 of the year after the year in which any county funds were expended by a participating county, the appropriate official of the participating county shall submit to the Secretary concerned a certification that the county funds expended in the applicable year have been used for the uses authorized under section 302(a), including a description of the amounts expended and the uses for which the amounts were expended.

''(b) REVIEW.—The Secretary concerned shall review the certifications submitted under subsection (a) as the Secretary concerned determines to be appropriate.

''SEC. 304. TERMINATION OF AUTHORITY.

''(a) IN GENERAL.—The authority to initiate projects under this title terminates on September 30, 2011.

''(b) AVAILABILITY.—Any county funds not obligated by September 30, 2012, shall be returned to the Treasury of the United States.

''TITLE IV—MISCELLANEOUS PROVISIONS

''SEC. 401. REGULATIONS.

''The Secretary of Agriculture and the Secretary of the Interior shall issue regulations to carry out the purposes of this Act.

''SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out this Act for each of fiscal years 2008 through 2011.

''SEC. 403. TREATMENT OF FUNDS AND REVENUES.

''(a) RELATION TO OTHER APPROPRIATIONS.—Funds made available under section 402 and funds made available to a Secretary concerned under section 206 shall be in addition to any other annual appropriations for the Forest Service and the Bureau of Land Management.

''(b) DEPOSIT OF REVENUES AND OTHER FUNDS.—All revenues generated from projects pursuant to title II, including any interest accrued from the revenues, shall be deposited in the Treasury of the United States.''.

(b) FOREST RECEIPT PAYMENTS TO ELIGIBLE STATES AND COUNTIES.—

(1) ACT OF MAY 23, 1908.—The sixth paragraph under the heading ''FOREST SERVICE'' in the Act of May 23, 1908 (16 U.S.C. 500) is amended in the first sentence by striking ''twenty-five percentum'' and all that follows through ''shall be paid'' and inserting the following: ''an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid''.

(2) WEEKS LAW.—Section 13 of the Act of March 1, 1911 (commonly known as the ''Weeks Law'') (16 U.S.C. 500) is amended in the first sentence by striking ''twenty-five percentum'' and all that follows through ''shall be paid'' and inserting the following: ''an amount equal to the annual average of 25 percent of all amounts received for the applicable fiscal year and each of the preceding 6 fiscal years from each national forest shall be paid''.

(c) PAYMENTS IN LIEU OF TAXES.—

(1) IN GENERAL.—Section 6906 of title 31, United States Code, is amended to read as follows:

''§ 6906. Funding

''For each of fiscal years 2008 through 2012—

''(1) each county or other eligible unit of local government shall be entitled to payment under this chapter; and

''(2) sums shall be made available to the Secretary of the Interior for obligation or expenditure in accordance with this chapter.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 69 of title 31, United States Code, is amended by striking the item relating to section 6906 and inserting the following:

''6906. Funding.''.

(3) BUDGET SCOREKEEPING.—

(A) IN GENERAL.—Notwithstanding the Budget Scorekeeping Guidelines and the accompanying list of programs and accounts set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, the section in this title regarding Payments in Lieu of Taxes shall be treated in the baseline for purposes of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 (as in effect prior to September 30, 2002), and by the Chairmen of the House and Senate Budget Committees, as appropriate, for purposes of budget enforcement in the House and Senate, and under the Congressional Budget Act of 1974 as if Payment in Lieu of Taxes (14–1114–0–1–806) were an account designated as Appropriated Entitlements and Mandatories for Fiscal Year 1997 in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217.

(B) EFFECTIVE DATE.—This paragraph shall remain in effect for the fiscal years to which the entitlement in section 6906 of title 31, United States Code (as amended by paragraph (1)), applies.

SEC. 342. CLARIFICATION OF UNIFORM DEFINITION OF CHILD.

(a) CHILD MUST BE YOUNGER THAN CLAIMANT.—Section 152(c)(3)(A) (relating to age requirements) is amended by inserting ''is younger than the taxpayer claiming such individual as a qualifying child and'' after ''such individual''.

(b) CHILD MUST BE UNMARRIED.—Section 152(c)(1) (relating to qualifying child) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) who has not filed a joint return (other than only for a claim of refund) with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.''.

(c) RESTRICT QUALIFYING CHILD TAX BENEFITS TO CHILD'S PARENT.—

(1) CHILD TAX CREDIT.—Subsection (a) of section 24 (relating to child tax credit) is amended by inserting ''for which the taxpayer is allowed a deduction under section 151'' after ''of the taxpayer''.

(2) PERSONS OTHER THAN PARENTS CLAIMING QUALIFYING CHILD.—

(A) IN GENERAL.—Paragraph (4) of section 152(c) is amended by adding at the end the following new subparagraph:

''(C) NO PARENT CLAIMING QUALIFYING CHILD.—If the parents of an individual may claim such individual as a qualifying child but no parent so claims the individual, such individual may be claimed as the qualifying child of another taxpayer but only if the adjusted gross income of such taxpayer is higher than the highest adjusted gross income of any parent of the individual.''.

(B) CONFORMING AMENDMENTS.—

(i) Subparagraph (A) of section 152(c)(4) is amended by striking ''Except'' through ''2 or more taxpayers'' and inserting ''Except as provided in subparagraphs (B) and (C), if (but for this paragraph) an individual may be claimed as a qualifying child by 2 or more taxpayers''.

(ii) The heading for paragraph (4) of section 152(c) is amended by striking ''CLAIMING'' and inserting ''WHO CAN CLAIM THE SAME''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

TITLE IV—REVENUE PROVISIONS

SEC. 401. NONQUALIFIED DEFERRED COMPENSATION FROM CERTAIN TAX INDIFFERENT PARTIES.

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 is amended by inserting after section 457 the following new section:

''SEC. 457A. NONQUALIFIED DEFERRED COMPENSATION FROM CERTAIN TAX INDIFFERENT PARTIES.

''(a) IN GENERAL.—Any compensation which is deferred under a nonqualified deferred compensation plan of a nonqualified entity shall be includible in gross income when there is no substantial risk of forfeiture of the rights to such compensation.

''(b) NONQUALIFIED ENTITY.—For purposes of this section, the term 'nonqualified entity' means—

''(1) any foreign corporation unless substantially all of its income is—

''(A) effectively connected with the conduct of a trade or business in the United States, or

''(B) subject to a comprehensive foreign income tax, and

''(2) any partnership unless substantially all of its income is allocated to persons other than—

''(A) foreign persons with respect to whom such income is not subject to a comprehensive foreign income tax, and

''(B) organizations which are exempt from tax under this title.

''(c) DETERMINABILITY OF AMOUNTS OF COMPENSATION.—

''(1) IN GENERAL.—If the amount of any compensation is not determinable at the time that such compensation is otherwise includible in gross income under subsection (a)—

''(A) such amount shall be so includible in gross income when determinable, and

''(B) the tax imposed under this chapter for the taxable year in which such compensation is includible in gross income shall be increased by the sum of—

''(i) the amount of interest determined under paragraph (2), and

''(ii) an amount equal to 20 percent of the amount of such compensation.

''(2) INTEREST.—For purposes of paragraph (1)(B)(i), the interest determined under this paragraph for any taxable year is the amount of interest at the underpayment rate under section 6621 plus 1 percentage point on the underpayments that would have occurred had the deferred compensation been includible in gross income for the taxable year in which first deferred or, if later, the first taxable year in which such deferred compensation is not subject to a substantial risk of forfeiture.

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) SUBSTANTIAL RISK OF FORFEITURE.—

''(A) IN GENERAL.—The rights of a person to compensation shall be treated as subject to a substantial risk of forfeiture only if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual.

''(B) EXCEPTION FOR COMPENSATION BASED ON GAIN RECOGNIZED ON AN INVESTMENT ASSET.—

''(i) IN GENERAL.—To the extent provided in regulations prescribed by the Secretary, if compensation is determined solely by reference to the amount of gain recognized on the disposition of an investment asset, such compensation shall be treated as subject to a substantial risk of forfeiture until the date of such disposition.

''(ii) INVESTMENT ASSET.—For purposes of clause (i), the term 'investment asset' means any single asset (other than an investment fund or similar entity)—

''(I) acquired directly by an investment fund or similar entity,

''(II) with respect to which such entity does not (nor does any person related to such entity) participate in the active management of such asset (or if such asset is an interest in an entity, in the active management of the activities of such entity), and

''(III) substantially all of any gain on the disposition of which (other than such deferred compensation) is allocated to investors in such entity.

''(iii) COORDINATION WITH SPECIAL RULE.—Paragraph (3)(B) shall not apply to any compensation to which clause (i) applies.

''(2) COMPREHENSIVE FOREIGN INCOME TAX.—The term 'comprehensive foreign income tax' means, with respect to any foreign person, the income tax of a foreign country if—

''(A) such person is eligible for the benefits of a comprehensive income tax treaty between such foreign country and the United States, or

''(B) such person demonstrates to the satisfaction of the Secretary that such foreign country has a comprehensive income tax.

''(3) NONQUALIFIED DEFERRED COMPENSATION PLAN.—

''(A) IN GENERAL.—The term 'nonqualified deferred compensation plan' has the meaning given such term under section 409A(d), except that such term shall include any plan that provides a right to compensation based on the appreciation in value of a specified number of equity units of the service recipient.

''(B) EXCEPTION.—Compensation shall not be treated as deferred for purposes of this section if the service provider receives payment of such compensation not later than 12 months after the end of the taxable year of the service recipient during which the right to the payment of such compensation is no longer subject to a substantial risk of forfeiture.

''(4) EXCEPTION FOR CERTAIN COMPENSATION WITH RESPECT TO EFFECTIVELY CONNECTED INCOME.—In the case a foreign corporation with income which is taxable under section 882, this section shall not apply to compensation which, had such compensation had been paid in cash on the date that such compensation ceased to be subject to a substantial risk of forfeiture, would have been deductible by such foreign corporation against such income.

''(5) APPLICATION OF RULES.—Rules similar to the rules of paragraphs (5) and (6) of section 409A(d) shall apply.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations disregarding a substantial risk of forfeiture in cases where necessary to carry out the purposes of this section.''.

(b) CONFORMING AMENDMENT.—Section 26(b)(2) is amended by striking ''and'' at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting '', and'', and by adding at the end the following new subparagraph:

''(W) section 457A(c)(1)(B) (relating to determinability of amounts of compensation).''.

(c) CLERICAL AMENDMENT.—The table of sections of subpart B of part II of subchapter E of chapter 1 is amended by inserting after the item relating to section 457 the following new item:

''Sec. 457A. Nonqualified deferred compensation from certain tax indifferent parties.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to amounts deferred which are attributable to services performed after December 31, 2008.

(2) APPLICATION TO EXISTING DEFERRALS.—In the case of any amount deferred to which the amendments made by this section do not apply solely by reason of the fact that the amount is attributable to services performed before January 1, 2009, to the extent such amount is not includible in gross income in a taxable year beginning before 2018, such amounts shall be includible in gross income in the later of—

(A) the last taxable year beginning before 2018, or

(B) the taxable year in which there is no substantial risk of forfeiture of the rights to such compensation (determined in the same manner as determined for purposes of section 457A of the Internal Revenue Code of 1986, as added by this section).

(3) CHARITABLE CONTRIBUTIONS OF EXISTING DEFERRALS PERMITTED.—

(A) IN GENERAL.—Subsection (b) of section 170 of the Internal Revenue Code of 1986 shall not apply to (and subsections (b) and (d) of such section shall be applied without regard to) so much of the taxpayer's qualified contributions made during the taxpayer's last taxable year beginning before 2018 as does not exceed the taxpayer's qualified inclusion amount. For purposes of subsection (b) of section 170 of such Code, the taxpayer's contribution base for such last taxable year shall be reduced by the amount of the taxpayer's qualified contributions to which such subsection does not apply by reason the preceding sentence.

(B) QUALIFIED CONTRIBUTIONS.—For purposes of this paragraph, the term ''qualified contributions'' means the aggregate charitable contributions (as defined in section 170(c) of such Code) paid in cash by the taxpayer to organizations described in section 170(b)(1)(A) of such Code (other than any organization described in section 509(a)(3) of such Code or any fund or account described in section 4966(d)(2) of such Code).

(C) QUALIFIED INCLUSION AMOUNT.—For purposes of this paragraph, the term ''qualified inclusion amount'' means the amount includible in the taxpayer's gross income for the last taxable year beginning before 2018 by reason of paragraph (2).

(4) ACCELERATED PAYMENTS.—No later than 120 days after the date of the enactment of this Act, the Secretary shall issue guidance providing a limited period of time during which a nonqualified deferred compensation arrangement attributable to services performed on or before December 31, 2008, may, without violating the requirements of section 409A(a) of the Internal Revenue Code of 1986, be amended to conform the date of distribution to the date the amounts are required to be included in income.

(5) CERTAIN BACK-TO-BACK ARRANGEMENTS.—If the taxpayer is also a service recipient and maintains one or more nonqualified deferred compensation arrangements for its service providers under which any amount is attributable to services performed on or before December 31, 2008, the guidance issued under paragraph (4) shall permit such arrangements to be amended to conform the dates of distribution under such arrangement to the date amounts are required to be included in the income of such taxpayer under this subsection.

(6) ACCELERATED PAYMENT NOT TREATED AS MATERIAL MODIFICATION.—Any amendment to a nonqualified deferred compensation arrangement made pursuant to paragraph (4) or (5) shall not be treated as a material modification of the arrangement for purposes of section 409A of the Internal Revenue Code of 1986.

SEC. 402. DELAY IN APPLICATION OF WORLDWIDE ALLOCATION OF INTEREST.

(a) IN GENERAL.—Paragraph (6) of section 864(f) is amended—

(1) by striking ''December 31, 2008'' and inserting ''December 31, 2018'',

(2) by striking ''An election'' and inserting:

''(A) IN GENERAL.—Except as provided in subparagraph (B), an election'', and

(3) by adding at the end the following new subparagraph:

''(B) EARLIER APPLICATION FOR CERTAIN GROUPS INCLUDING HOLDING COMPANIES.—

''(i) IN GENERAL.—Notwithstanding subparagraph (A), in the case of an applicable worldwide affiliated group—

''(I) the common parent of the applicable worldwide affiliated group may elect, for its first taxable year beginning after December 31, 2008, to have paragraphs (1), (2), and (3) apply to the applicable worldwide affiliated group as if it were a separate worldwide affiliated group, and

''(II) except as provided in clause (ii), such election shall apply to such applicable worldwide affiliated group for such taxable year and the 2 immediately succeeding taxable years unless revoked with the consent of the Secretary.

Such election shall not preclude an election under subparagraph (A) with respect to the worldwide affiliated group to which such applicable worldwide affiliated group relates.

''(ii) LIMITATION BASED ON FOREIGN ASSETS.—This subsection shall not apply to a taxable year for which the election under clause (i) is otherwise in effect if the ratio (expressed as a percentage) which the foreign assets of the applicable worldwide affiliated group bear to all the assets of the applicable worldwide affiliated group exceeds 3 percent at any time during such taxable year.

''(iii) APPLICABLE WORLDWIDE AFFILIATED GROUP.—For purposes of this subparagraph, the term 'applicable worldwide affiliated group' means, with respect to any worldwide affiliated group (as defined in paragraph (1)(C)) the common parent of which is an entity described in clause (i), (ii), or (iii) of paragraph (4)(C), a separate group consisting of those members of such worldwide affiliated group which—

''(I) are entities described in clause (i), (ii), or (iii) of paragraph (4)(C), or are subsidiaries of such entities substantially all of the activities of which are payroll, asset holding, or other activities which are integrally related to activities described in any such clause, and

''(II) were in existence, and were members of such group, as of October 21, 2004.

''(iv) GUIDANCE.—The Secretary may prescribe such guidance as may be necessary to carry out the application of this subparagraph, including guidance with respect to the proper method for determining the ratio described in clause (ii) and guidance to prevent avoidance of the purposes of this subparagraph.''.

(b) CONFORMING AMENDMENT.—Paragraph (5)(D) of section 864(f) is amended by striking ''December 31, 2008'' and inserting ''December 31, 2018''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2008.

SEC. 403. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

(a) REPEAL OF ADJUSTMENT FOR 2012.—Subparagraph (B) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking the percentage contained therein and inserting ''100 percent''.

(b) MODIFICATION OF ADJUSTMENT FOR 2013.—The percentage under subparagraph (C) of section 401(1) of the Tax Increase Prevention and Reconciliation Act of 2005 in effect on the date of the enactment of this Act is increased by 37.75 percentage points.

By Mr. COLEMAN:

S. 3126. A bill to provide for the development of certain tradional and alternative energy resources; and for other purposes; to the Committee on Finance.

Mr. COLEMAN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Energy Resource Development Act of 2008''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term ''Secretary'' means the Secretary of Energy.

TITLE I—TRADITIONAL RESOURCES

SEC. 101. REVOCATION OF WITHDRAWAL OF CERTAIN AREAS OF THE OUTER CONTINENTAL SHELF.

The ''Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition'', 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998, is revoked and no longer in effect regarding any area on the outer Continental Shelf covered by sections 104 and 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118).

SEC. 102. STATE AUTHORITY TO PROTECT CERTAIN COASTAL AREAS.

Section 19 of the Outer Continental Shelf Lands Act (43 U.S.C. 1345) is amended by adding at the end the following:

''(f) APPROVAL BY CERTAIN AFFECTED STATES.—

''(1) DEFINITION OF AFFECTED STATE.—In this subsection, the term 'affected State' means a State that the Secretary, in consultation with the Administrator of the Environmental Protection Agency, determines could be affected negatively by the potential environmental or economic impacts of a proposed lease sale or proposed development and production plan under this Act.

''(2) NOTICE TO AFFECTED STATES.—Not later than 30 days before the date of a proposed lease sale or the publication of a proposed development and production plan, the Secretary shall submit to the Governor of each affected State notice of the proposed sale or plan.

''(3) AUTHORITIES OF AFFECTED STATES.—Not later than 60 days after the date on which the Secretary provides to the Governor of an affected State notice under paragraph (2), the Governor of the affected State shall submit to the Secretary a written response to the proposed sale or plan that—

''(A) specifies whether the Governor—

''(i) accepts the sale or plan as proposed;

''(ii) accepts the sale or plan with modification; or

''(iii) vetoes the proposed sale or plan; and

''(B) in the case of subparagraph (A)(ii), includes a counterproposal that describes—

''(i) any proposed modifications to—

''(I) the proposed plan; or

''(II) the size, time, or location of the proposed sale; and

''(ii) any areas off the coast of the State that the Governor recommends for long-term protection in the form of a moratorium on leasing for a period of not more than 20 years based on—

''(I) any information in existence on the date of the counterproposal concerning the geographical, geological, and ecological characteristics of the areas proposed for protection;

''(II) an equitable sharing of developmental benefits and environmental risks among the areas;

''(III) the location of the areas with respect to—

''(aa) other uses of the sea and seabed in the areas, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports; and

''(bb) other anticipated uses of the resources and space of other areas of the outer Continental Shelf;

''(IV) any relevant laws, goals, and policies of the State; and

''(V) the relative environmental sensitivity and marine productivity of other areas of the outer Continental Shelf.

''(4) SECRETARIAL RESPONSE.—

''(A) IN GENERAL.—As soon as practicable after the Secretary receives a counterproposal under paragraph (3)(B), the Secretary, in consultation with the Secretary of Defense, shall—

''(i) approve the counterproposal without modification;

''(ii) attempt to enter into an agreement with the Governor to modify the counterproposal; or

''(iii) deny the counterproposal.

''(B) APPROVAL OF AGREEMENT.—To be valid, an agreement entered into under subparagraph (A)(ii) requires the approval of the Governor, the Secretary, and the Secretary of the Defense.''.

SEC. 103. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

''SEC. 32. PRODUCTION OF OIL AND NATURAL GAS IN NEW PRODUCING AREAS.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a new producing State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the new producing State as of the date of enactment of this section; and

''(B) not more than 200 nautical miles from the geographic center of any leased tract.

''(2) MORATORIUM AREA.—

''(A) IN GENERAL.—The term 'moratorium area' means an area covered by sections 104 through 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2008 (Public Law 110–161; 121 Stat. 2118).

''(B) EXCLUSION.—The term 'moratorium area' does not include an area located in the Gulf of Mexico.

''(3) NEW PRODUCING AREA.—The term 'new producing area' means any moratorium area beyond the submerged land of a new producing State.

''(4) NEW PRODUCING STATE.—The term 'new producing State' means a State that has received notice of a proposed lease sale for a new producing area under section 19(f)(2).

''(5) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified outer Continental Shelf revenues' means all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases entered into on or after the date of enactment of this section for new producing areas.

''(B) EXCLUSIONS.—The term 'qualified outer Continental Shelf revenues' does not include—

''(i) revenues from a bond or other surety forfeited for obligations other than the collection of royalties;

''(ii) revenues from civil penalties;

''(iii) royalties taken by the Secretary in-kind and not sold;

''(iv) revenues generated from leases subject to section 8(g); or

''(v) any revenues considered qualified outer Continental Shelf revenues under section 102 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432).

''(b) AVAILABILITY FOR LEASING.—On approval by the new producing State of a proposed lease sale for a new producing area under section 19(f), the Secretary shall conduct the proposed lease sale for the new producing area.

''(c) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM NEW PRODUCING AREAS.—

''(1) IN GENERAL.—Notwithstanding section 9 and subject to the other provisions of this subsection, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

''(A) 50 percent of qualified outer Continental Shelf revenues—

''(i) in the fund established by section 201 of the Energy Resource Development Act of 2008; or

''(ii) if the Secretary of the Treasury determines that the fund described in clause (i) is fully funded, in the general fund of the Treasury; and

''(B) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—

''(i) 75 percent to new producing States in accordance with paragraph (2); and

''(ii) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601 –8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 4601–5).

''(2) ALLOCATION TO NEW PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(A) ALLOCATION TO NEW PRODUCING STATES.—Effective for fiscal year 2008 and each fiscal year thereafter, the amount made available under paragraph (1)(B)(i) shall be allocated to each new producing State in amounts (based on a formula established by the Secretary by regulation) proportional to the amount of qualified outer Continental Shelf revenues generated in the new producing area offshore each State.

''(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—The Secretary shall pay 20 percent of the allocable share of each new producing State, as determined under subparagraph (A), to the coastal political subdivisions of the new producing State.

''(ii) ALLOCATION.—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political

subdivision in accordance with subparagraphs (B) and (C) of section 31(b)(4).

''(3) MINIMUM ALLOCATION.—The amount allocated to a new producing State for each fiscal year under paragraph (2) shall be at least 5 percent of the amounts available under for the fiscal year under paragraph (1)(B)(i).

''(4) TIMING.—The amounts required to be deposited under subparagraph (B) of paragraph (1) for the applicable fiscal year shall be made available in accordance with that subparagraph during the fiscal year immediately following the applicable fiscal year.

''(5) AUTHORIZED USES.—

''(A) IN GENERAL.—Subject to subparagraph (B), each new producing State and coastal political subdivision shall use all amounts received under paragraph (2) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

''(i) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, and hurricane protection.

''(ii) Mitigation of damage to fish, wildlife, or natural resources.

''(iii) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

''(iv) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore projects.

''(v) Planning assistance and the administrative costs of complying with this section.

''(B) LIMITATION.—Not more than 3 percent of amounts received by a new producing State or coastal political subdivision under paragraph (2) may be used for the purposes described in subparagraph (A)(v).

''(6) ADMINISTRATION.—Amounts made available under paragraph (1)(B) shall—

''(A) be made available, without further appropriation, in accordance with this subsection;

''(B) remain available until expended; and

''(C) be in addition to any amounts appropriated under—

''(i) other provisions of this Act;

''(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.); or

''(iii) any other provision of law.

''(d) DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM OTHER AREAS.—Notwithstanding section 9, for each applicable fiscal year, the terms and conditions of subsection (c) shall apply to the disposition of qualified outer Continental Shelf revenues that—

''(1) are derived from oil or gas leasing in an area that is not included in the current 5-year plan of the Secretary for oil or gas leasing; and

''(2) are not assumed in the budget of the United States Government submitted by the President under section 1105 of title 31, United States Code.

''(e) DUE DILIGENCE REQUIRED.—

''(1) NEW PRODUCING AREA LEASES.—Each lease entered into under this section shall provide that if a lessee fails to initiate development of the oil or gas resources in the new producing area subject to the lease by the date that is 2 years after the date of the issuance of the lease—

''(A) the lease shall terminate; and

''(B) the Secretary shall conduct a new lease sale for the new producing area that was subject to the terminated lease.

''(2) EXISTING LEASES.—

''(A) IN GENERAL.—Any lease entered into under any other section of this Act that is in effect on the date of enactment of this section shall terminate at the end of the 10–year lease period specified in the lease.

''(B) AVAILABILITY FOR LEASING.—The Secretary shall conduct a new lease sale for any area subject to a lease terminated under subparagraph (A) in accordance with this Act.

''(C) LEASE REQUIREMENTS.—Any lease issued under a lease sale conducted under subparagraph (B) shall provide that if a lessee fails to initiate development of the oil or gas resources in the area subject to the lease by the date that is 2 years after the date of the issuance of the lease—

''(i) the lease shall terminate; and

''(ii) the Secretary shall conduct a new lease sale for the area that was subject to the terminated lease.''.

TITLE II—ALTERNATIVE RESOURCES

Subtitle A—Renewable Fuel and Advanced Energy Technology

SEC. 201. ENERGY INDEPENDENCE TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the ''Energy Independence Trust Fund'' (referred to in this section as the ''Fund''), consisting of such amounts as are deposited in the Fund under section 32(c)(1)(A)(i) of the Outer Continental Shelf Lands Act (as added by section 102).

(b) EXPENDITURES FROM FUND.—

(1) IN GENERAL.—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary such amounts as the Secretary determines are necessary to carry out the following:

(A) Section 609 of the Public Utility Regulatory Policies Act of 1978 (7 U.S.C. 918c).

(B) Title V of the Toxic Substances Control Act (15 U.S.C. 2695 et seq.).

(C) Sections 211(r), 212, and 329 of the Clean Air Act (42 U.S.C. 7545(r), 7546, 7628).

(D) The following provisions of the Energy Policy and Conservation Act:

(i) Section 324A (42 U.S.C. 6294a).

(ii) Section 337(c) (42 U.S.C. 6307(c)).

(iii) Section 365(f) (42 U.S.C. 6325(f)).

(iv) Part E of title III (42 U.S.C. 6341 et seq.).

(v) Section 399A (42 U.S.C. 6371h–1).

(E) The following provisions of the Energy Policy Act of 2005:

(i) Section 107 (42 U.S.C. 15812).

(ii) The amendments made by section 123 (119 Stat. 616).

(iii) Sections 124 through 127 (42 U.S.C. 15821 through 15824).

(iv) The amendments made by section 128 (119 Stat. 619).

(v) Sections 133 and 134 (42 U.S.C. 15831, 15832).

(vi) Section 140 (42 U.S.C. 15833).

(vii) Section 201 (42 U.S.C. 15851).

(viii) The amendments made by section 202 (119 Stat. 651).

(ix) The amendments made by section 206 (119 Stat. 654).

(x) Section 207 (119 Stat. 656).

(xi) Sections 208 and 210 (42 U.S.C. 15854, 15855).

(xii) Sections 242 and 243 (42 U.S.C. 15881, 15882).

(xiii) The amendments made by section 251 (119 Stat. 679).

(xiv) Section 252 (42 U.S.C. 15891).

(xv) Sections 706, 712, 721, and 731 (42 U.S.C. 16051, 16062, 16071, 16081).

(xvi) Subtitle C of title VII (42 U.S.C. 16091 et seq.).

(xvii) Sections 751 and 755 through 758 (42 U.S.C. 16101, 16103 through 16106).

(xviii) Section 771 (119 Stat. 834).

(xix) Sections 782 and 783 (42 U.S.C. 16122, 16123).

(xx) Sections 805, 808, 809, and 812 (42 U.S.C. 16154, 16157, 16158, 16161).

(xxi) Sections 911, 917, 921, and 931 (42 U.S.C. 16191, 16197, 16211, 16231).

(xxii) The amendments made by section 941 (119 Stat. 873).

(xxiii) Sections 942, 944 through 947, and 963 (42 U.S.C. 16251, 16253 through 16256, 16293).

(xxiv) Sections 1510, 1514, and 1516 (42 U.S.C. 16501, 16502, 16503).

(F) The following provisions of the Energy Independence and Security Act of 2007:

(i) Sections 131 and 135 (42 U.S.C. 17011, 17012).

(ii) Sections 207, 223, 229, 230, 234, 244, and 246 (42 U.S.C. 17022, 17032, 17033, 17034, 17035, 17052, 17053).

(iii) Section 243 (121 Stat. 1540).

(iv) Section 411 (42 U.S.C. 6872 note; Public Law 110–140).

(v) Sections 422, 440, 452, 491, and 495 (42 U.S.C. 17082, 17096, 17111, 17121, 17124).

(vi) Section 501 (121 Stat. 1655).

(vii) Section 502 (2 U.S.C. 2169).

(viii) The amendments made by section 505 (121 Stat. 1656).

(ix) Section 517 (42 U.S.C. 17131).

(x) Subtitle E of title V (42 U.S.C. 17151 et seq.).

(xi) Section 602 (42 U.S.C. 17171).

(xii) Sections 604 through 607 (42 U.S.C. 17172 through 17175).

(xiii) Subtitles B through E of title VI (42 U.S.C. 17191 et seq.) (other than section 653).

(xiv) Sections 703, 705, 707, 708, 711, and 712 (42 U.S.C. 17251, 17253, 17255, 17256, 17271, 17272).

(xv) Sections 805 and 807 (42 U.S.C. 17284, 17286).

(xvi) Sections 912, 913, 916, 917, 925, and 927 (42 U.S.C. 17332, 17333, 17336, 17337, 17355, 17357).

(G) Section 202.

(H) Subtitle C.

(2) ADMINISTRATIVE EXPENSES.—An amount not exceeding 5 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this section.

(c) TRANSFERS OF AMOUNTS.—

(1) IN GENERAL.—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

(2) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

SEC. 202. LOAN GUARANTEES FOR RENEWABLE FUEL PIPELINES.

(a) DEFINITIONS.—In this section:

(1) COST.—The term ''cost'' has the meaning given the term ''cost of a loan guarantee'' in section 502(5)(C) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(C)).

(2) ELIGIBLE PROJECT.—The term eligible project means a project described in subsection (b)(1).

(3) GUARANTEE.—

(A) IN GENERAL.—The term ''guarantee'' has the meaning given the term ''loan guarantee'' in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(B) INCLUSION.—The term ''guarantee'' includes a loan guarantee commitment (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)).

(4) RENEWABLE FUEL.—The term ''renewable fuel'' has the meaning given the term in section 211(o)(1) of the Clean Air Act (42 U.S.C. 7545(o)(1)) (as in effect on January 1, 2009).

(5) RENEWABLE FUEL PIPELINE.—The term ''renewable fuel pipeline'' means a common carrier pipeline for transporting renewable fuel.

(b) LOAN GUARANTEES.—

(1) IN GENERAL.—The Secretary shall make guarantees under this section for projects

that provide for the construction of new renewable fuel pipelines.

(2) ELIGIBILITY.—In determining the eligibility of a project for a guarantee under this section, the Secretary shall consider—

(A) the volume of renewable fuel to be moved by the renewable fuel pipeline;

(B) the size of the markets to be served by the renewable fuel pipeline;

(C) the existence of sufficient storage to facilitate access to the markets served by the renewable fuel pipeline;

(D) the proximity of the renewable fuel pipeline to ethanol production facilities;

(E) the investment of the entity carrying out the proposed project in terminal infrastructure;

(F) the experience of the entity carrying out the proposed project in working with renewable fuels;

(G) the ability of the entity carrying out the proposed project to maintain the quality of the renewable fuel through—

(i) the terminal system of the entity; and

(ii) the dedicated pipeline system;

(H) the ability of the entity carrying out the proposed project to complete the project in a timely manner; and

(I) the ability of the entity carrying out the proposed project to secure property rights-of-way in order to move the proposed project forward in a timely manner.

(3) AMOUNT.—Unless otherwise provided by law, a guarantee by the Secretary under this section shall not exceed an amount equal to 90 percent of the eligible project cost of the renewable fuel pipeline that is the subject of the guarantee, as estimated at the time at which the guarantee is issued or subsequently modified while the eligible project is under construction.

(4) TERMS AND CONDITIONS.—Guarantees under this section shall be provided in accordance with section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512), except that subsections (b) and (c) of that section shall not apply to guarantees under this section.

(5) EXISTING FUNDING AUTHORITY.—The Secretary shall make a guarantee under this section under an existing funding authority.

(6) FINAL RULE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register a final rule directing the Director of the Department of Energy Loan Guarantee Program Office to initiate the loan guarantee program under this section in accordance with this section.

(c) FUNDING.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to provide $4,000,000,000 in guarantees under this section.

(2) USE OF OTHER APPROPRIATED FUNDS.—To the extent that the amounts made available under title XVII of the Energy Policy Act of 2005 (42 U.S.C. 16511 et seq.) have not been disbursed to programs under that title, the Secretary may use the amounts to carry out this section.

Subtitle B—Clean Coal-Derived Fuels for Energy Security

SEC. 211. DEFINITIONS.

In this subtitle:

(1) CLEAN COAL-DERIVED FUEL.—

(A) IN GENERAL.—The term ''clean coal-derived fuel'' means aviation fuel, motor vehicle fuel, home heating oil, or boiler fuel that is—

(i) substantially derived from the coal resources of the United States; and

(ii) refined or otherwise processed at a facility located in the United States that captures—

(I) at least 50 percent of the carbon dioxide emissions that would otherwise be released at the facility; or

(II) if the Secretary determines that it is commercially feasible to capture a higher percentage of carbon dioxide emissions, a percentage equal to or greater than the percentage of carbon dioxide emissions determined by the Secretary to be commercially feasible of being captured.

(B) INCLUSIONS.—The term ''clean coal-derived fuel'' may include any other resource that is extracted, grown, produced, or recovered in the United States.

(2) COVERED FUEL.—The term ''covered fuel'' means—

(A) aviation fuel;

(B) motor vehicle fuel;

(C) home heating oil; and

(D) boiler fuel.

(3) SMALL REFINERY.—The term ''small refinery'' means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

SEC. 212. CLEAN COAL-DERIVED FUEL PROGRAM.

(a) PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President shall promulgate regulations to ensure that covered fuel sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, contains the applicable volume of clean coal-derived fuel determined in accordance with paragraph (4).

(2) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under paragraph (1)—

(A) shall contain compliance provisions applicable to refineries, blenders, distributors, and importers, as appropriate, to ensure that—

(i) the requirements of this subsection are met; and

(ii) clean coal-derived fuels produced from facilities for the purpose of compliance with this subtitle result in life cycle greenhouse gas emissions that are not greater than gasoline; and

(B) shall not—

(i) restrict geographic areas in the contiguous United States in which clean coal-derived fuel may be used; or

(ii) impose any per-gallon obligation for the use of clean coal-derived fuel.

(3) RELATIONSHIP TO OTHER REGULATIONS.—Regulations promulgated under this paragraph shall, to the maximum extent practicable, incorporate the program structure, compliance and reporting requirements established under the final regulations promulgated to implement the renewable fuel program established by the amendment made by section 1501(a)(2) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 1067).

(4) APPLICABLE VOLUME.—

(A) CALENDAR YEARS 2015 THROUGH 2022.—For the purpose of this subsection, the applicable volume for any of calendar years 2015 through 2022 shall be determined in accordance with the following table:

Calendar year:	Applicable volume of clean coal-derived fuel (in billions of gallons)
2015	.075
2016	1.5
2017	2.25
2018	3.00
2019	3.75
2020	4.5
2021	5.25
2022	6.0

(B) CALENDAR YEAR 2023 AND THEREAFTER.—Subject to subparagraph (C), for the purposes of this subsection, the applicable volume for calendar year 2023 and each calendar year thereafter shall be determined by the President, in coordination with the Secretary and the Administrator of the Environmental Protection Agency, based on a review of the implementation of the program during calendar years 2015 through 2022, including a review of—

(i) the impact of clean coal-derived fuels on the energy security of the United States;

(ii) the expected annual rate of future production of clean coal-derived fuels; and

(iii) the impact of the use of clean coal-derived fuels on other factors, including job creation, rural economic development, and the environment.

(C) MINIMUM APPLICABLE VOLUME.—For the purpose of this subsection, the applicable volume for calendar year 2023 and each calendar year thereafter shall be equal to the product obtained by multiplying—

(i) the number of gallons of covered fuel that the President estimates will be sold or introduced into commerce in the calendar year; and

(ii) the ratio that—

(I) 6,000,000,000 gallons of clean coal-derived fuel; bears to

(II) the number of gallons of covered fuel sold or introduced into commerce in calendar year 2022.

(b) APPLICABLE PERCENTAGES.—

(1) PROVISION OF ESTIMATE OF VOLUMES OF CERTAIN FUEL SALES.—Not later than October 31 of each of calendar years 2015 through 2021, the Administrator of the Energy Information Administration shall provide to the President an estimate, with respect to the following calendar year, of the volumes of covered fuel projected to be sold or introduced into commerce in the United States.

(2) DETERMINATION OF APPLICABLE PERCENTAGES.—

(A) IN GENERAL.—Not later than November 30 of each of calendar years 2015 through 2022, based on the estimate provided under paragraph (1), the President shall determine and publish in the Federal Register, with respect to the following calendar year, the clean coal-derived fuel obligation that ensures that the requirements of subsection (a) are met.

(B) REQUIRED ELEMENTS.—The clean coal-derived fuel obligation determined for a calendar year under subparagraph (A) shall—

(i) be applicable to refineries, blenders, and importers, as appropriate;

(ii) be expressed in terms of a volume percentage of covered fuel sold or introduced into commerce in the United States; and

(iii) subject to paragraph (3)(A), consist of a single applicable percentage that applies to all categories of persons specified in clause (i).

(3) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the President shall make adjustments—

(A) to prevent the imposition of redundant obligations on any person specified in paragraph (2)(B)(i); and

(B) to account for the use of clean coal-derived fuel during the previous calendar year by small refineries that are exempt under subsection (f).

(c) VOLUME CONVERSION FACTORS FOR CLEAN COAL-DERIVED FUELS BASED ON ENERGY CONTENT.—

(1) IN GENERAL.—For the purpose of subsection (a), the President shall assign values to specific types of clean coal-derived fuel for the purpose of satisfying the fuel volume requirements of subsection (a)(4) in accordance with this subsection.

(2) ENERGY CONTENT RELATIVE TO DIESEL FUEL.—For clean coal-derived fuels, 1 gallon

of the clean coal-derived fuel shall be considered to be the equivalent of 1 gallon of diesel fuel multiplied by the ratio that—

(A) the number of British thermal units of energy produced by the combustion of 1 gallon of the clean coal-derived fuel (as measured under conditions determined by the Secretary); bears to

(B) the number of British thermal units of energy produced by the combustion of 1 gallon of diesel fuel (as measured under conditions determined by the Secretary to be comparable to conditions described in subparagraph (A)).

(d) CREDIT PROGRAM.—

(1) IN GENERAL.—The President, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall implement a credit program to manage the clean coal-derived fuel requirement of this section in a manner consistent with the credit program established by the amendment made by section 1501(a)(2) of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 1067).

(2) MARKET TRANSPARENCY.—In carrying out the credit program under this subsection, the President shall facilitate price transparency in markets for the sale and trade of credits, with due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

(e) WAIVERS.—

(1) IN GENERAL.—The President, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, may waive the requirements of subsection (a) in whole or in part on petition by 1 or more States by reducing the national quantity of clean coal-derived fuel required under subsection (a), based on a determination by the President (after public notice and opportunity for comment), that—

(A) implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

(B) extreme and unusual circumstances exist that prevent distribution of an adequate supply of domestically-produced clean coal-derived fuel to consumers in the United States.

(2) PETITIONS FOR WAIVERS.—The President, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall approve or disapprove a State petition for a waiver of the requirements of subsection (a) within 90 days after the date on which the petition is received by the President.

(3) TERMINATION OF WAIVERS.—A waiver granted under paragraph (1) shall terminate after 1 year, but may be renewed by the President after consultation with the Secretary and the Administrator of the Environmental Protection Agency.

(f) SMALL REFINERIES.—

(1) TEMPORARY EXEMPTION.—

(A) IN GENERAL.—The requirements of subsection (a) shall not apply to small refineries until calendar year 2018.

(B) EXTENSION OF EXEMPTION.—

(i) STUDY BY SECRETARY.—Not later than December 31, 2013, the Secretary shall submit to the President and Congress a report describing the results of a study to determine whether compliance with the requirements of subsection (a) would impose a disproportionate economic hardship on small refineries.

(ii) EXTENSION OF EXEMPTION.—In the case of a small refinery that the Secretary determines under clause (i) would be subject to a disproportionate economic hardship if required to comply with subsection (a), the President shall extend the exemption under subparagraph (A) for the small refinery for a period of not less than 2 additional years.

(2) PETITIONS BASED ON DISPROPORTIONATE ECONOMIC HARDSHIP.—

(A) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the President for an extension of the exemption under paragraph (1) for the reason of disproportionate economic hardship.

(B) EVALUATION OF PETITIONS.—In evaluating a petition under subparagraph (A), the President, in consultation with the Secretary, shall consider the findings of the study under paragraph (1)(B) and other economic factors.

(C) DEADLINE FOR ACTION ON PETITIONS.—The President shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

(3) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of subsection (a) if the small refinery notifies the President that the small refinery waives the exemption under paragraph (1).

(g) PENALTIES AND ENFORCEMENT.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—Any person that violates a regulation promulgated under subsection (a), or that fails to furnish any information required under such a regulation, shall be liable to the United States for a civil penalty of not more than the total of—

(i) $25,000 for each day of the violation; and

(ii) the amount of economic benefit or savings received by the person resulting from the violation, as determined by the President.

(B) COLLECTION.—Civil penalties under subparagraph (A) shall be assessed by, and collected in a civil action brought by, the Secretary or such other officer of the United States as is designated by the President.

(2) INJUNCTIVE AUTHORITY.—

(A) IN GENERAL.—The district courts of the United States shall have jurisdiction to—

(i) restrain a violation of a regulation promulgated under subsection (a);

(ii) award other appropriate relief; and

(iii) compel the furnishing of information required under the regulation.

(B) ACTIONS.—An action to restrain such violations and compel such actions shall be brought by and in the name of the United States.

(C) SUBPOENAS.—In the action, a subpoena for a witness who is required to attend a district court in any district may apply in any other district.

(h) EFFECTIVE DATE.—Except as otherwise specifically provided in this section, this section takes effect on January 1, 2016.

Subtitle C—Nuclear Energy

SEC. 221. INCENTIVES FOR INNOVATIVE TECHNOLOGIES.

(a) DEFINITION OF PROJECT COST.—Section 1701 of the Energy Policy Act of 2005 (42 U.S.C. 16511) is amended by adding at the end the following:

''(6) PROJECT COST.—

''(A) IN GENERAL.—The term 'project cost' means any cost associated with the development, planning, design, engineering, permitting and licensing, construction, commissioning, start-up, shakedown, and financing of a facility.

''(B) INCLUSIONS.—The term 'project cost' includes—

''(i) reasonable escalation and contingencies;

''(ii) the cost of and fees for a guarantee;

''(iii) reasonably required reserve funds;

''(iv) initial working capital; and

''(v) interest accrued during construction.''.

(b) TERMS AND CONDITIONS; AMOUNT.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by striking subsections (b) and (c) and inserting the following:

''(b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—

''(1) IN GENERAL.—No guarantee shall be made unless—

''(A) the Secretary has received from the borrower and deposited in the Treasury a payment in full for the cost of the obligation;

''(B) an appropriation for the cost has been made in lieu of a payment being made; or

''(C) a combination of actions described in subparagraphs (A) and (B) has been carried out such that, when combined, the actions are sufficient to cover the cost of the obligation.

''(2) RELATION TO OTHER LAWS.—Section 504(b) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(b)) shall not apply to a loan guarantee made in accordance with paragraph (1)(B).

''(c) AMOUNT.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall guarantee 100 percent of the obligation for a facility that is the subject of the guarantee, or a lesser amount if requested by the borrower.

''(2) LIMITATION.—The total amount of loans guaranteed for a facility by the Secretary shall not exceed 80 percent of the total cost of the facility, as estimated at the time at which the guarantee is issued.''.

(c) FEES.—Section 1702(h) of the Energy Policy Act of 2005 (42 U.S.C. 16512(h)) is amended by striking paragraph (2) and inserting the following:

''(2) AVAILABILITY.—Fees collected under this subsection shall—

''(A) be deposited by the Secretary into a special fund in the Treasury, to be known as the 'Incentives For Innovative Technologies Fund'; and

''(B) remain available to the Secretary for expenditure, without further appropriation or fiscal year limitation, for administrative expenses incurred in carrying out this title.''.

(d) REPORT TO CONGRESS.—Section 1702 of the Energy Policy Act of 2005 (42 U.S.C. 16512) is amended by adding at the end the following:

''(k) REPORT TO CONGRESS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection and annually thereafter, the Secretary shall submit to Congress a report that summarizes the applications for loan guarantees received, loan guarantees approved and rejected, and justifications for rejections of loan guarantees, under this title.

''(2) TERMINATION OF AUTHORITY.—Beginning with fiscal year 2018, the Secretary shall provide, in the annual report submitted for each fiscal year under paragraph (1), a recommendation on whether all or part of the loan guarantee program under this title should be terminated.''.

SEC. 222. AUTHORIZATION FOR NUCLEAR POWER 2010 PROGRAM.

Section 952 of the Energy Policy Act of 2005 (42 U.S.C. 16272) is amended by striking subsection (c) and inserting the following:

''(c) NUCLEAR POWER 2010 PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a Nuclear Power 2010 Program to position the United States to commence construction of new nuclear power plants by not later than—

''(A) calendar year 2010; or

''(B) such first calendar year after calendar year 2010 as is practicable.

''(2) SCOPE OF PROGRAM.—The Nuclear Power 2010 Program shall support the objectives of—

''(A) demonstrating the licensing process for new nuclear power plants, including the

Nuclear Regulatory Commission process for obtaining—

''(i) early site permits;

''(ii) combined construction or operating licenses; and

''(iii) design certifications; and

''(B) conducting first-of-a-kind design and engineering work on at least 2 advanced nuclear reactor designs sufficient to bring those designs to a state of design completion sufficient to allow development of firm cost estimates.

''(3) COST-SHARING.—The Nuclear Power 2010 Program shall be carried out through the use of cost-sharing with the private sector.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the Nuclear Power 2010 Program—

''(A) $182,800,000 for fiscal year 2009;

''(B) $159,600,000 for fiscal year 2010;

''(C) $135,600,000 for fiscal year 2011;

''(D) $46,900,000 for fiscal year 2012; and

''(E) $2,200,000 for fiscal year 2013.''.

SEC. 223. DOMESTIC MANUFACTURING BASE FOR NUCLEAR COMPONENTS AND EQUIPMENT.

(a) ESTABLISHMENT OF INTERAGENCY WORKING GROUP.—

(1) PURPOSES.—The purposes of this section are—

(A) to increase the competitiveness of the United States nuclear energy products and services industries;

(B) to identify the stimulus or incentives necessary to cause United States manufacturers of nuclear energy products to expand manufacturing capacity;

(C) to facilitate the export of United States nuclear energy products and services;

(D) to reduce the trade deficit of the United States through the export of United States nuclear energy products and services;

(E) to retain and create nuclear energy manufacturing and related service jobs in the United States;

(F) to integrate the objectives described in subparagraphs (A) through (E), in a manner consistent with the interests of the United States, into the foreign policy of the United States; and

(G) to authorize funds for increasing United States capacity to manufacture nuclear energy products and supply nuclear energy services.

(2) ESTABLISHMENT.—

(A) IN GENERAL.—There is established an interagency working group (referred to in this section as the ''Working Group'') that, in consultation with representative industry organizations and manufacturers of nuclear energy products, shall make recommendations to coordinate the actions and programs of the Federal Government in order to promote increasing domestic manufacturing capacity and export of domestic nuclear energy products and services.

(B) COMPOSITION.—The Working Group shall be composed of—

(i) the Secretary (or a designee), who shall serve as Chairperson of the Working Group; and

(ii) representatives, appointed by the head of each applicable agency or department, of—

(I) the Department of Energy;

(II) the Department of Commerce;

(III) the Department of Defense;

(IV) the Department of Treasury;

(V) the Department of State;

(VI) the Environmental Protection Agency;

(VII) the United States Agency for International Development;

(VIII) the Export-Import Bank of the United States;

(IX) the Trade and Development Agency;

(X) the Small Business Administration;

(XI) the Office of the United States Trade Representative; and

(XII) other Federal agencies, as determined by the President.

(3) DUTIES OF WORKING GROUP.—The Working Group shall—

(A) not later than 180 days after the date of enactment of this Act, identify the actions necessary to promote the safe development and application in foreign countries of nuclear energy products and services—

(i) to increase electricity generation from nuclear energy sources through development of new generation facilities;

(ii) to improve the efficiency, safety, and reliability of existing nuclear generating facilities through modifications; and

(iii) enhance the safe treatment, handling, storage, and disposal of used nuclear fuel;

(B) not later than 180 days after the date of enactment of this Act, identify—

(i) mechanisms (including tax stimuli for investment, loans and loan guarantees, and grants) necessary for United States companies to increase—

(I) the capacity of the companies to produce or provide nuclear energy products and services; and

(II) exports of nuclear energy products and services; and

(ii) administrative or legislative initiatives that are necessary—

(I) to encourage United States companies to increase the manufacturing capacity of the companies for nuclear energy products;

(II) to provide technical and financial assistance and support to small and mid-sized businesses to establish quality assurance programs in accordance with domestic and international nuclear quality assurance code requirements;

(III) to encourage, through financial incentives, private sector capital investment to expand manufacturing capacity; and

(IV) to provide technical assistance and financial incentives to small and mid-sized businesses to develop the workforce necessary to increase manufacturing capacity and meet domestic and international nuclear quality assurance code requirements;

(C) not later than 270 days after the date of enactment of this Act, submit to Congress a report that describes the findings of the Working Group under subparagraphs (A) and (B), including recommendations for new legislative authority, as necessary; and

(D) encourage the agencies represented by membership in the Working Group—

(i) to provide technical training and education for international development personnel and local users in other countries;

(ii) to provide financial and technical assistance to nonprofit institutions that support the marketing and export efforts of domestic companies that provide nuclear energy products and services;

(iii) to develop nuclear energy projects in foreign countries;

(iv) to provide technical assistance and training materials to loan officers of the World Bank, international lending institutions, commercial and energy attaches at embassies of the United States, and other appropriate personnel in order to provide information about nuclear energy products and services to foreign governments or other potential project sponsors;

(v) to support, through financial incentives, private sector efforts to commercialize and export nuclear energy products and services in accordance with the subsidy codes of the World Trade Organization; and

(vi) to augment budgets for trade and development programs in order to support prefeasibility or feasibility studies for projects that use nuclear energy products and services.

(4) PERSONNEL AND SERVICE MATTERS.—The Secretary and the heads of agencies represented by membership in the Working Group shall detail such personnel and furnish such services to the Working Group, with or without reimbursement, as are necessary to carry out the functions of the Working Group.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this subsection $20,000,000 for each of fiscal years 2009 and 2010.

(b) CREDIT FOR QUALIFYING NUCLEAR POWER MANUFACTURING.—

(1) CREDIT FOR QUALIFYING NUCLEAR POWER MANUFACTURING.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code is amended by inserting after section 48B the following new section:

''SEC. 48C. QUALIFYING NUCLEAR POWER MANUFACTURING CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the qualifying nuclear power manufacturing credit for any taxable year is an amount equal to 20 percent of the qualified investment for such taxable year.

''(b) QUALIFIED INVESTMENT.—

''(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year—

''(A) which is either part of a qualifying nuclear power manufacturing project or is qualifying nuclear power manufacturing equipment;

''(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer; or

''(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer;

''(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable; and

''(D) which is placed in service on or before December 31, 2015.

''(2) SPECIAL RULE FOR CERTAIN SUBSIDIZED PROPERTY.—Rules similar to section 48(a)(4) shall apply for purposes of this section.

''(3) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(c) DEFINITIONS.—For purposes of this section:

''(1) QUALIFYING NUCLEAR POWER MANUFACTURING PROJECT.—The term 'qualifying nuclear power manufacturing project' means any project which is designed primarily to enable the taxpayer to produce or test equipment necessary for the construction or operation of a nuclear power plant.

''(2) QUALIFYING NUCLEAR POWER MANUFACTURING EQUIPMENT.—The term 'qualifying nuclear power manufacturing equipment' means machine tools and other similar equipment, including computers and other peripheral equipment, acquired or constructed primarily to enable the taxpayer to produce or test equipment necessary for the construction or operation of a nuclear power plant.

''(3) PROJECT.—The term 'project' includes any building constructed to house qualifying nuclear power manufacturing equipment.''.

(2) CONFORMING AMENDMENTS.—

(A) ADDITIONAL INVESTMENT CREDIT.—Section 46 of such Code is amended by—

(i) striking ''and'' at the end of paragraph (3);

(ii) striking the period at the end of paragraph (4) and inserting '', and''; and

(iii) inserting after paragraph (4) the following new paragraph:

''(5) the qualifying nuclear power manufacturing credit.''.

(B) APPLICATION OF SECTION 49.—Subparagraph (C) of section 49(a)(1) of such Code is amended by—

(i) striking ''and'' at the end of clause (iii);

(ii) striking the period at the end of clause (iv) and inserting '', and''; and

(iii) inserting after clause (iv) the following new clause:

''(v) the basis of any property which is part of a qualifying nuclear power equipment manufacturing project under section 48C.''.

(C) TABLE OF SECTIONS.—The table of sections for such subpart E is amended by inserting after the item relating to section 48B the following new item:

''Sec. 48C. Qualifying nuclear power manufacturing credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property—

(1) the construction, reconstruction, or erection of which of began after the date of enactment of this Act, or

(2) which was acquired by the taxpayer on or after the date of enactment of this Act and not pursuant to a binding contract which was in effect on the day prior to the date of enactment.

SEC. 224. NUCLEAR ENERGY WORKFORCE.

Section 1101 of the Energy Policy Act of 2005 (42 U.S.C. 16411) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

''(d) WORKFORCE TRAINING.—

''(1) IN GENERAL.—The Secretary of Labor, in cooperation with the Secretary of Energy, shall promulgate regulations to implement a program to provide workforce training to meet the high demand for workers skilled in the nuclear utility and nuclear energy products and services industries.

''(2) CONSULTATION.—In carrying out this subsection, the Secretary of Labor shall consult with representatives of the nuclear utility and nuclear energy products and services industries, and organized labor, concerning skills that are needed in those industries.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Labor, in coordination with the Secretary of Education and the Secretary of Energy, to carry out this subsection $20,000,000 for each of fiscal years 2009 through 2012.''.

SEC. 225. INVESTMENT TAX CREDIT FOR INVESTMENTS IN NUCLEAR POWER FACILITIES.

(a) NEW CREDIT FOR NUCLEAR POWER FACILITIES.—Section 46 of the Internal Revenue Code of 1986, as amended by this title, is amended by—

(1) striking ''and'' at the end of paragraph (4);

(2) striking the period at the end of paragraph (5) and inserting '', and''; and

(3) inserting after paragraph (5) the following new paragraph:

''(5) the nuclear power facility construction credit.''.

(b) NUCLEAR POWER FACILITY CONSTRUCTION CREDIT.—Subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by this title, is amended by inserting after section 48C the following new section:

''SEC. 48D. NUCLEAR POWER FACILITY CONSTRUCTION CREDIT.

''(a) IN GENERAL.—For purposes of section 46, the nuclear power facility construction credit for any taxable year is 10 percent of the qualified nuclear power facility expenditures with respect to a qualified nuclear power facility.

''(b) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—

''(1) IN GENERAL.—Qualified nuclear power facility expenditures shall be taken into account for the taxable year in which the qualified nuclear power facility is placed in service.

''(2) COORDINATION WITH SUBSECTION (C).—The amount which would (but for this paragraph) be taken into account under paragraph (1) with respect to any qualified nuclear power facility shall be reduced (but not below zero) by any amount of qualified nuclear power facility expenditures taken into account under subsection (c) by the taxpayer or a predecessor of the taxpayer (or, in the case of a sale and leaseback described in section 50(a)(2)(C), by the lessee), to the extent any amount so taken into account has not been required to be recaptured under section 50(a).

''(c) PROGRESS EXPENDITURES.—

''(1) IN GENERAL.—A taxpayer may elect to take into account qualified nuclear power facility expenditures–

''(A) SELF-CONSTRUCTED PROPERTY.—In the case of a qualified nuclear power facility which is a self-constructed facility, in the taxable year for which such expenditures are properly chargeable to capital account with respect to such facility; and

''(B) ACQUIRED FACILITY.—In the case of a qualified nuclear facility which is not self-constructed property, in the taxable year in which such expenditures are paid.

''(2) SPECIAL RULES FOR APPLYING PARAGRAPH (1).—For purposes of paragraph (1)–

''(A) COMPONENT PARTS, ETC.—Property which is not self-constructed property and which is to be a component part of, or is otherwise to be included in, any facility to which this subsection applies shall be taken into account in accordance with paragraph (1)(B);

''(B) CERTAIN BORROWING DISREGARDED.—Any amount borrowed directly or indirectly by the taxpayer on a nonrecourse basis from the person constructing the facility for the taxpayer shall not be treated as an amount expended for such facility; and

''(C) LIMITATION FOR FACILITIES OR COMPONENTS WHICH ARE NOT SELF-CONSTRUCTED.—

''(i) IN GENERAL.—In the case of a facility or a component of a facility which is not self-constructed, the amount taken into account under paragraph (1)(B) for any taxable year shall not exceed the amount which represents the portion of the overall cost to the taxpayer of the facility or component of a facility which is properly attributable to the portion of the facility or component which is completed during such taxable year.

''(ii) CARRY-OVER OF CERTAIN AMOUNTS.—In the case of a facility or component of a facility which is not self-constructed, if for the taxable year—

''(I) the amount which (but for clause (i)) would have been taken into account under paragraph (1)(B) exceeds the limitation of clause (i), then the amount of such excess shall be taken into account under paragraph (1)(B) for the succeeding taxable year; or

''(II) the limitation of clause (i) exceeds the amount taken into account under paragraph (1)(B), then the amount of such excess shall increase the limitation of clause (i) for the succeeding taxable year.

''(D) DETERMINATION OF PERCENTAGE OF COMPLETION.—The determination under subparagraph (C)(i) of the portion of the overall cost to the taxpayer of the construction which is properly attributable to construction completed during any taxable year shall be made on the basis of engineering or architectural estimates or on the basis of cost accounting records. Unless the taxpayer establishes otherwise by clear and convincing evidence, the construction shall be deemed to be completed not more rapidly than ratably over the normal construction period.

''(E) NO PROGRESS EXPENDITURES FOR CERTAIN PRIOR PERIODS.—No qualified nuclear facility expenditures shall be taken into account under this subsection for any period before the first day of the first taxable year to which an election under this subsection applies.

''(F) NO PROGRESS EXPENDITURES FOR PROPERTY FOR YEAR IT IS PLACED IN SERVICE, ETC.—In the case of any qualified nuclear facility, no qualified nuclear facility expenditures shall be taken into account under this subsection for the earlier of—

''(i) the taxable year in which the facility is placed in service; or

''(ii) the first taxable year for which recapture is required under section 50(a)(2) with respect to such facility, or for any taxable year thereafter.

''(3) SELF-CONSTRUCTED.—For purposes of this subsection–

''(A) The term 'self-constructed facility' means any facility if it is reasonable to believe that more than half of the qualified nuclear facility expenditures for such facility will be made directly by the taxpayer.

''(B) A component of a facility shall be treated as not self-constructed if the cost of the component is at least 5 percent of the expected cost of the facility and the component is acquired by the taxpayer.

''(4) ELECTION.—An election shall be made under this section for a qualified nuclear power facility by claiming the nuclear power facility construction credit for expenditures described in paragraph (1) on a tax return filed by the due date for such return (taking into account extensions). Such an election shall apply to the taxable year for which made and all subsequent taxable years. Such an election, once made, may be revoked only with the consent of the Secretary.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section–

''(1) QUALIFIED NUCLEAR POWER FACILITY.—The term 'qualified nuclear power facility' means an advanced nuclear power facility, as defined in section 45J, the construction of which was approved by the Nuclear Regulatory Commission on or before December 31, 2013.

''(2) QUALIFIED NUCLEAR POWER FACILITY EXPENDITURES.—

''(A) IN GENERAL.—The term 'qualified nuclear power facility expenditures' means any amount properly chargeable to capital account—

''(i) with respect to a qualified nuclear power facility;

''(ii) for which depreciation is allowable under section 168; and

''(iii) which are incurred before the qualified nuclear power facility is placed in service or in connection with the placement of such facility in service.

''(B) PRE-EFFECTIVE DATE EXPENDITURES.—Qualified nuclear power facility expenditures do not include any expenditures incurred by the taxpayer before January 1, 2007, unless such expenditures constitute less than 20 percent of the total qualified nuclear power facility expenditures (determined without regard to this subparagraph) for the qualified nuclear power facility.

''(3) DELAYS AND SUSPENSION OF CONSTRUCTION.—

''(A) IN GENERAL.—For purposes of applying this section and section 50, a nuclear power facility that is under construction shall cease to be treated as a facility that will be a qualified nuclear power facility as of the earlier of—

''(i) the date on which the taxpayer decides to terminate construction of the facility; or

''(ii) the last day of any 24 month period in which the taxpayer has failed to incur qualified nuclear power facility expenditures totaling at least 20 percent of the expected total cost of the nuclear power facility.

''(B) AUTHORITY TO WAIVE.—The Secretary may waive the application of clause (ii) of subparagraph (A) if the Secretary determines that the taxpayer intended to continue the construction of the qualified nuclear power facility and the expenditures were not incurred for reasons outside the control of the taxpayer.

''(C) RESUMPTION OF CONSTRUCTION.—If a nuclear power facility that is under construction ceases to be a qualified nuclear power facility by reason of paragraph (2) and work is subsequently resumed on the construction of such facility—

''(i) the date work is subsequently resumed shall be treated as the date that construction began for purposes of paragraph (1); and

''(ii) if the facility is a qualified nuclear power facility, the qualified nuclear power facility expenditures shall be determined without regard to any delay or temporary termination of construction of the facility.''.

(c) PROVISIONS RELATING TO CREDIT RECAPTURE.—

(1) PROGRESS EXPENDITURE RECAPTURE RULES.—

(A) BASIC RULES.—Subparagraph (A) of section 50(a)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

''(A) IN GENERAL.—If during any taxable year any building to which section 47(d) applied or any facility to which section 48D(c) applied ceases (by reason of sale or other disposition, cancellation or abandonment of contract, or otherwise) to be, with respect to the taxpayer, property which, when placed in service, will be a qualified rehabilitated building or a qualified nuclear power facility, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the credit determined under this subpart with respect to such building or facility.''.

(B) AMENDMENT TO EXCESS CREDIT RECAPTURE RULE.—Subparagraph (B) of section 50(a)(2) of such Code is amended by—

(i) inserting ''or paragraph (2) of section 48D(b)'' after ''paragraph (2) of section 47(b)'';

(ii) inserting ''or section 48D(b)(1)'' after ''section 47(b)(1)''; and

(iii) inserting ''or facility'' after ''building''.

(C) AMENDMENT OF SALE AND LEASEBACK RULE.—Subparagraph (C) of section 50(a)(2) of such Code is amended by—

(i) inserting ''or section 48D(c)'' after ''section 47(d)''; and

(ii) inserting ''or qualified nuclear power facility expenditures'' after ''qualified rehabilitation expenditures''.

(D) OTHER AMENDMENT.—Subparagraph (D) of section 50(a)(2) of such Code is amended by inserting ''or section 48D(c)'' after ''section 47(d)''.

(d) NO BASIS ADJUSTMENT.—Section 50(c) of the Internal Revenue Code of 1986 is amended by inserting at the end thereof the following new paragraph:

''(6) NUCLEAR POWER FACILITY CONSTRUCTION CREDIT.—Paragraphs (1) and (2) shall not apply to the nuclear power facility construction credit.''.

(e) TECHNICAL AMENDMENTS.—The table of sections for subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by this subtitle, is amended by inserting after the item relating to section 48C the following new item:

''Sec. 48D. Nuclear power facility construction credit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall be effective for expenditures incurred and property placed in service in taxable years beginning after the date of enactment of this Act.

By Mr. KYL:

S. 3128. A bill to direct the Secretary of the Interior to provide a loan to the White Mountain Apache Tribe for use in planning, engineering, and designing a certain water system project; to the Committee on Indian Affairs.

Mr. KYL. Mr. President, today I am pleased to introduce the White Mountain Apache Tribe Rural Water System Loan Authorization Act. This legislation would authorize a Federal loan to the White Mountain Apache Tribe for the planning, engineering, and design of a dam and reservoir, which will be used to provide drinking water to the tribe.

The White Mountain Apache Tribe, which is located on the Fort Apache Indian Reservation in eastern Arizona, has approximately 15,000 members. The majority of the reservation's residents are currently served by a relative small well field. According to the tribe, well production has significantly decreased over the last few years, leading to summer drinking water shortages.

A small rural development funded diversion project on the North Fork of the White River on the tribe's reservation is planned for construction this year. The tribe indicates that when the project is completed it will replace most of the lost production from the existing well field, but will not produce enough water to meet the demand of the tribe's growing population. Consequently, in order to meet the basic drinking water needs of the tribe, a longer-term solution is needed. The most likely and best solution is a relatively small dam and reservoir located on the tribe's reservation—the Miner Flat Dam.

The legislation I am introducing today would authorize the Secretary of the Interior to provide a Federal loan to the tribe for the planning, engineering, and design of the Miner Flat Dam. A portion of the funds set aside in the Arizona Water Settlements Act for future Arizona Indian water settlements would be used to repay the loan. Although Congress specifically set aside money in the Arizona Water Settlements Act for this purpose, the money will not be available until 2013. If the tribe were to wait until then to access these funds, the cost of Miner Flat Dam would increase $5 million to $7 million a year. Therefore, providing a loan to the tribe to expedite the planning of the dam would ultimately decrease the project's costs.

Any Federal funding for the actual construction of the project would be conditioned on the settlement of the tribe's water rights claims, which would have to be confirmed by Congress. The tribe is in the process of settling its water claims in the State of Arizona, and it is my understanding that the parties involved in negotiating the tribe's water claims will likely reach a settlement with the tribe this summer. Once the parties reach an agreement, I intend to introduce legislation confirming their settlement.

The legislation I am introducing today would bring the tribe one step closer to having a reliable source of drinking water. Consequently, I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 3128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''White Mountain Apache Tribe Rural Water System Loan Authorization Act''.

SEC. 2. DEFINITIONS.

(a) MINER FLAT PROJECT.—The term ''Miner Flat Project'' means the White Mountain Apache Rural Water System, comprised of the Miner Flat Dam and associated domestic water supply components, as described in the project extension report dated February 2007.

(b) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation (or any other designee of the Secretary).

(c) TRIBE.—The term ''Tribe'' means the White Mountain Apache Tribe, a federally recognized Indian tribe organized pursuant to section 16 of the Indian Reorganization Act of 1934 (25 U.S.C. 476 et seq.).

SEC. 3. MINER FLAT PROJECT LOAN.

(a) LOAN.—Subject to the condition that the Tribe and the Secretary have executed a cooperative agreement under section 4(a), not later than 90 days after the date of enactment of this Act, the Secretary shall provide to the Tribe a loan in an amount equal to $9,800,000, adjusted, as appropriate, based on ordinary fluctuations in engineering cost indices applicable to the Miner Flat Project during the period beginning on October 1, 2007, and ending on the date on which the loan is provided, as determined by the Secretary, to carry out planning, engineering, and design of the Miner Flat Project in accordance with section 4.

(b) TERMS AND CONDITIONS OF LOAN.—

(1) INTEREST; TERM.—The loan provided under subsection (a) shall—

(A) be at a rate of interest of 0 percent; and

(B) be repaid over a term of 10 years, beginning on January 1, 2013.

(2) FUNDS FOR REPAYMENT.—

(A) IN GENERAL.—For each of fiscal years 2013 and 2014, in lieu of direct repayment by the Tribe of the loan provided under subsection (a), the amount described in subparagraph (B) shall be credited toward repayment of the loan.

(B) DESCRIPTION OF AMOUNT.—The amount referred to in subparagraph (A) is a portion of the funds in the Lower Colorado River Development Fund pursuant to section 403(f)(2)(D)(vi) of the Colorado River Basin Project Act (43 U.S.C. 1543(f)(2)(D)(vi)) equal to—

(i) for fiscal year 2013, 50 percent of the outstanding balance of the loan under subsection (a) as of October 1, 2012; and

(ii) for fiscal year 2014, the remaining balance of the loan as of October 1, 2013.

(c) ADMINISTRATION.—Subject to section 4, the Secretary shall administer the planning, engineering, and design of the Miner Flat Project.

SEC. 4. PLANNING, ENGINEERING, AND DESIGN.

(a) COOPERATIVE AGREEMENT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall offer to enter into a cooperative agreement with the Tribe for the planning, engineering, and design of the Miner Flat Project in accordance with this Act.

(2) MANDATORY PROVISIONS.—A cooperative agreement under paragraph (1) shall specify, in a manner that is acceptable to the Secretary and the Tribe, the rights, responsibilities, and liabilities of each party to the agreement.

(b) APPLICABILITY OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.—Each activity for the planning, engineering, or design, of the Miner Flat Project shall be subject to the requirements of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. LEVIN (for himself, Mrs. FEINSTEIN, Mr. DURBIN, Mr. DORGAN, and Mr. BINGAMAN):

S. 3129. A bill to amend the Commodity Exchange Act to prevent price manipulation and excessive speculation and to increase transparency with respect to energy trading on foreign exchanges conducted within the United States; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LEVIN. Mr. President, today I am introducing, along with Senators FEINSTEIN, DURBIN, and DORGAN, the Close the London Loophole Act. This legislation would ensure that the Commodity Futures Trading Commission, CFTC, has the same authority to detect, prevent, and punish manipulation and excessive speculation for traders in the United States who trade crude U.S. oil or other energy commodities on foreign commodity exchanges as the CFTC has for traders who trade on U.S. exchanges.

Today, U.S. crude oil and gasoline futures are traded primarily on exchanges in New York and London. While the CFTC—our cop on the beat—has clear authority to go after trading abuses on the New York exchange, its authority is less clear when it comes to U.S. energy commodities traded on the London exchange. The bill we are introducing today would close the London loophole by ensuring the CFTC has all the information and authority it needs to stop price manipulation or excessive speculation involving U.S. energy trades on foreign exchanges.

Under current law, the CFTC obtains the information it needs to detect price manipulation and excessive speculation involving U.S. energy trades on foreign exchanges only through voluntary data-sharing agreements it arranges with the relevant foreign regulators. In many instances, the CFTC can take action against a U.S. trader on a foreign exchange to prevent manipulation or excessive speculation only with the cooperation and consent of the foreign regulator.

Our bill would strengthen CFTC oversight by providing the CFTC with clear legal authority, as well as a clear legal obligation, to obtain trading data from foreign exchanges operating in the United States through direct trading terminals. In addition, the bill would enable the CFTC to act on its own authority and initiative to prevent manipulation or excessive speculation by U.S. traders directing trades through foreign exchanges. This new authority would ensure that our own government has the information and ability to protect American markets from manipulation and excessive speculation, no matter where U.S. energy commodities are traded. U.S. traders will no longer be able to avoid the cop on the beat by routing their trades through a foreign exchange.

This legislation would complement a recent legislative initiative I have long worked on to ensure that U.S. commodity markets are free from manipulation and excessive speculation. Last month the Congress passed, over the President's veto, legislation to close the Enron loophole. This loophole, enacted into law in 2000 at the behest of Enron and other commodity traders, had allowed large traders to buy and sell energy commodities on U.S. electronic markets without CFTC oversight. The legislation passed last month as part of the farm bill gave the CFTC the authority and mandate to police U.S. electronic exchanges to stop price manipulation and excessive speculation. No longer will these electronic commodity exchanges be able to operate in the dark, as they had under the Enron loophole.

Closing the Enron loophole is a major advance in U.S. energy market oversight as a whole, and for our natural gas markets in particular, but it is not enough. Because over the last two years, energy traders have begun trading U.S. crude oil, gasoline, and home heating oil on the London exchange, beyond the direct reach of U.S. regulators, we have to address that second loophole too. I call it closing the London loophole.

There are currently two key energy commodity markets for U.S. crude oil, gasoline, and heating oil trading. The first is the New York Mercantile Exchange or NYMEX, located in New York City. The second is the ICE Futures Europe exchange, located in London and regulated by the British agency called the Financial Services Authority.

British regulators do not oversee their energy markets the same way we do. They don't place limits on speculation like we do, they don't monitor trader positions like we do, and they do not require the same type of data to be reported to regulatory authorities. That means that traders can avoid U.S. crude oil speculation limits on the New York exchange by trading on the London exchange. It also makes the London exchange less transparent than the New York exchange. The legislation I introduced last year to close the Enron loophole would have required U.S. traders on the London exchange to provide U.S. regulators with the same type of trading information that they are already required to provide when they trade on the New York Mercantile Exchange. Unfortunately, this provision was dropped from the close-the-Enron-loophole legislation in the farm bill.

The Consumer-First Energy Act, S. 3044, which the Majority Leader and others introduced recently to address high prices and reduce speculation, included at my request a provision to curb rampant speculation, increase our access to foreign exchange trading data, and strengthen oversight of the trading of U.S. energy commodities no matter where that trading occurs. This provision would require the CFTC, prior to allowing a foreign exchange to establish direct trading terminals located in this country, to obtain an agreement from that foreign exchange to impose speculative limits and reporting requirements on traders of U.S. energy commodities comparable to the requirements imposed by the CFTC on U.S. exchanges. This issue is so important that I introduced this section of the package as a separate bill, S. 2995, along with Senator FEINSTEIN.

Following the introduction of our legislation, the CFTC finally moved to address some of the gaps in its ability to oversee foreign exchanges operating in the United States. Specifically, the CFTC, working with the United Kingdom Financial Services Authority and the ICE Futures Europe exchange, announced that it will now obtain the following information about the trading of U.S. crude oil contracts on the London exchange: daily large trader reports on positions in West Texas Intermediate or WTI contracts traded on the London exchange; information on those large trader positions for all futures contracts, not just a limited set of contracts due to expire in the near future; enhanced trader information to permit more detailed identification of end users; improved data formatting to facilitate integration of the data with other CFTC data systems; and notification to the CFTC of when a trader on ICE Futures Europe exceeds the position accountability levels established by NYMEX for the trading of WTI crude oil contracts.

These new steps will strengthen the CFTC's ability to detect and prevent manipulation and excessive speculation in the oil and gasoline markets. It will ensure that the CFTC has the same type of information it receives from U.S. exchanges in order to detect and prevent manipulation and excessive speculation on the London exchange.

However, in order to fully close the London loophole, better information is not enough. The CFTC must also have clear authority to act upon this information to stop manipulation and excessive speculation.

That is why I have been working with the sponsors of the Consumer-First Energy Act to develop additional language to ensure that the CFTC has the authority to act upon the information obtained from the London exchange to prevent price manipulation and excessive speculation. This new provision would make it clear that the CFTC has the authority to prosecute and punish manipulation of the price of a commodity, regardless of whether the trader within the United States is trading on a U.S. or on a foreign exchange. It would also make it clear that the CFTC has the authority to require traders in the United States to reduce their positions, no matter where the trading occurs—on a U.S. or foreign exchange—to prevent price manipulation or excessive speculation in U.S. commodities. Finally, it would clarify that the CFTC has the authority to require all U.S. traders to keep records of their trades, regardless of which exchange the trader is using.

This new provision is included in the bill we are introducing today. I hope that it will also be included in the Consumer-First Energy Act when Senate debate is allowed to go forward on that bill.

In closing the London loophole, we will ensure there is a cop on the beat for all U.S. energy commodity traders, no matter whether they are trading on an exchange in New York or in London. It will ensure that our regulators have the information and the tools to detect, prevent, and punish manipulation and excessive speculation.

By Mr. DURBIN (for himself, Mr. REID, Mr. LEVIN, Mr. BINGAMAN, Mr. DORGAN, Mrs. FEINSTEIN, Ms. KLOBUCHAR, Mr. MENENDEZ, Mr. BROWN, Mr. CASEY, Mr. KERRY, Mr. LEAHY, Mrs. MURRAY, Ms. MIKULSKI, Mr. OBAMA, and Mr. REED):

S. 3130. A bill to provide energy price relief by authorizing greater resources and authority for the Commodity Futures Trading Commission, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DURBIN. Mr. President, I came to the floor at the beginning of this week to make a simple point: as oil prices have reached $139 per barrel in recent days, the truth is that no one—not the oil industry, not the futures exchanges, not the regulators, not even this United States Senator—knows exactly what's going on here.

But with the economy in a tailspin and with the average price for a gallon of gas surpassing $4 and even higher across the country, it is time to find out.

The chairman of the chief regulator of the futures markets, the Commodity Futures Trading Commission, doesn't seem to know either. In a recent appropriations subcommittee hearing I chaired, Chairman Lukken stated that ''CFTC staff analysis indicates that the current higher futures prices are generally not a result of manipulative forces.''

Yet last Thursday and Friday the futures price of a barrel of oil shot up $16. In 2 days. Unless there was a massive pipeline explosion late last week that I somehow missed, there is simply no supply or demand justification for that kind of price increase.

Something more is going on here.

Is it rampant speculation that is causing the rise in oil prices?

Is it illegal market manipulation?

Is it the fact that the stock markets are not providing investors with decent returns at the moment, and so big investors are now pouring money into the futures markets instead?

Is it the hugely deflated dollar exchange rate that is behind this?

Is it that investors are worried about inflation and are using oil to hedge against that risk like they use to use gold?

Is it really the rising demand of emerging economies like China and India that is causing the price of oil to rise?

Is it the lack of true oversight into these markets that has encouraged institutional traders to take large speculative positions through overseas markets or over-the-counter trades, positions that they can't take in other markets?

Is it the lack of portfolio caps that are in place for some futures contracts but not for oil that has encouraged institutional traders to take large speculative positions?

The questions go on and on. And the answers are scarce. Given the importance of the price of gas to families in Illinois and across the country, I think that is scandalous.

That's why I'm introducing a bill today entitled the ''Increasing Transparency and Accountability in Oil Prices Act.'' This bill would provide more people and better technology to the CFTC to help them better understand this situation. It also would give the CFTC far greater visibility to the traders and the transactions that are involved here.

Specifically, this bill would:

Authorize the CFTC to hire an additional 100 FTEs, and express the Sense of the Senate for the need for an emergency supplemental request from the President for this funding;

Close the ''London loophole'' by treating oil traders located in London as if they were trading in the U.S. for regulatory purposes, so that the CFTC has access to oil trades on all exchanges rather than just the trades that take place physically in the U.S.;

Require more detailed reporting to the CFTC for index funds and swap dealers who typically take long positions that might drive up the price of oil;

Move the CFTC Inspector General out of the CFTC Chairman's office, to ensure its objectivity; and

Initiate a GAO study of the existing international regulatory regime that should be preventing excessive speculation and manipulation of oil prices.

Many of these ideas are not new. Senators LEVIN, FEINSTEIN, CANTWELL, and DORGAN have all been very active on these issues as have many others, and of course Chairman BINGAMAN and Chairman HARKIN have been leaders on these regulatory issues for years.

For my part, I intend to use my Chairmanship of the Appropriations Subcommittee on Financial Services and General Government to increase the funding and capacity of the CFTC. We will expect the agency to use these resources to get to the bottom of this.

Quickly.

These ideas—more regulatory resources and more market transparency—are ideas that many of my colleagues might agree with. I encourage my colleagues on both sides of the aisle to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Increasing Transparency and Accountability in Oil Prices Act of 2008''.

SEC. 2. SENSE OF SENATE ON ADDITIONAL EMERGENCY FUNDING FOR COMMISSION.

(a) FINDINGS.—The Senate finds that—

(1) excessive speculation may be adding significantly to the price of oil and other energy commodities;

(2) the public and Congress are concerned that private, unregulated transactions and overseas exchange transactions are not being adequately reviewed by any regulatory body;

(3) an important Federal overseer of commodity speculation, the Commodity Futures Trading Commission, has staffing levels that have dropped to the lowest levels in the 33-year history of the Commission; and

(4) the acting Chairman of the Commission has said publicly that an additional 100 employees are needed in light of the inflow of trading volume.

(b) SENSE OF SENATE.—It is the sense of the Senate that the President should immediately send to Congress a request for emergency appropriations for fiscal year 2008 for the Commodity Futures Trading Commission in an amount that is sufficient—

(1) to help restore public confidence in energy commodities markets and Federal oversight of those markets;

(2) to potentially impose limits on excessive speculation that is increasing the price of oil, gasoline, diesel, and other energy commodities;

(3) to significantly improve the information technology capabilities of the Commission to help the Commission effectively regulate the energy futures markets; and

(4) to fund at least 100 new full-time positions at the Commission to oversee energy commodity market speculation and to enforce the Commodity Exchange Act (7 U.S.C. 1 et seq.).

SEC. 3. ADDITIONAL COMMISSION EMPLOYEES FOR IMPROVED ENFORCEMENT.

Section 2(a)(7) of the Commodity Exchange Act (7 U.S.C. 2(a)(7)) is amended by adding at the end the following:

''(D) ADDITIONAL EMPLOYEES.—As soon as practicable after the date of enactment of this subparagraph, the Commission shall appoint at least 100 full-time employees (in addition to the employees employed by the Commission as of the date of enactment of this subparagraph)—

''(i) to increase the public transparency of operations in energy futures markets;

''(ii) to improve the enforcement of this Act in those markets; and

''(iii) to carry out such other duties as are prescribed by the Commission.''.

SEC. 4. INSPECTOR GENERAL.

Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2(a)) is amended by adding at the end the following:

''(13) INSPECTOR GENERAL.—

''(A) OFFICE.—There shall be in the Commission, as an independent office, an Office of the Inspector General.

''(B) APPOINTMENT.—The Office shall be headed by an Inspector General, appointed in accordance with the Inspector General Act of 1978 (5 U.S.C. App.).

''(C) COMPENSATION.—The Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(D) ADMINISTRATION.—The Inspector General shall exert independent control of the budget allocations, expenditures, and staffing levels, personnel decisions and processes, procurement, and other administrative and management functions of the Office.''.

SEC. 5. STUDY OF INTERNATIONAL REGULATION OF ENERGY COMMODITY MARKETS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the international regime for regulating the trading of energy commodity futures and derivatives.

(b) ANALYSIS.—The study shall include an analysis of, at a minimum—

(1) key common features and differences among countries in the regulation of energy commodity trading, including with respect to market oversight and enforcement;

(2) agreements and practices for sharing market and trading data;

(3) the use of position limits or thresholds to detect and prevent price manipulation, excessive speculation, or other unfair trading practices;

(4) practices regarding the identification of commercial and noncommercial trading and the extent of market speculation; and

(5) agreements and practices for facilitating international cooperation on market oversight, compliance, and enforcement.

(c) REPORT.—Not later than 120 days after the date of enactment of this Act, the Comptroller General shall submit to the appropriate committees of Congress a report that—

(1) describes the results of the study; and

(2) provides recommendations to improve openness, transparency, and other necessary elements of a properly functioning market in a manner that protects consumers in the United States from the effects of excessive speculation and energy price volatility.

SEC. 6. SPECULATIVE LIMITS AND TRANSPARENCY FOR OFF-SHORE OIL TRADING.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following:

''(e) FOREIGN BOARDS OF TRADE.—

''(1) IN GENERAL.—In the case of any foreign board of trade for which the Commission has granted or is considering an application to grant a board of trade located outside of the United States relief from the requirement of subsection (a) to become a designated contract market, derivatives transaction execution facility, or other registered entity, with respect to an energy commodity that is physically delivered in the United States, prior to continuing to or initially granting the relief, the Commission shall determine that the foreign board of trade—

''(A) applies comparable principles or requirements regarding the daily publication of trading information and position limits or accountability levels for speculators as apply to a designated contract market, derivatives transaction execution facility, or other registered entity trading energy commodities physically delivered in the United States; and

''(B) provides such information to the Commission regarding the extent of speculative and nonspeculative trading in the energy commodity that is comparable to the information the Commission determines necessary to publish a Commitment of Traders report for a designated contract market, derivatives transaction execution facility, or other registered entity trading energy commodities physically delivered in the United States.

''(2) EXISTING FOREIGN BOARDS OF TRADE.—During the period beginning 1 year after the date of enactment of this subsection and ending 18 months after the date of enactment of this subsection, the Commission shall determine whether to continue to grant relief in accordance with paragraph (1) to any foreign board of trade for which the Commission granted relief prior to the date of enactment of this subsection.''.

SEC. 7. COMMISSION AUTHORITY OVER TRADERS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 6) is amended by adding at the end the following:

''(f) COMMISSION AUTHORITY OVER TRADERS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section or any determination made by the Commission to grant relief from the requirements of subsection (a) to become a designated contract market, derivatives transaction execution facility, or other registered entity, in the case of a person located within the United States, or otherwise subject to the jurisdiction of the Commission, trading on a foreign board of trade, exchange, or market located outside the United States (including the territories and or possessions of the United States), the Commission shall have authority under this Act—

''(A) to apply and enforce section 9, including provisions relating to manipulation or attempted manipulation, the making of false statements, and willful violations of this Act;

''(B) to require or direct the person to limit, reduce, or liquidate any position to prevent or reduce the threat of price manipulation, excessive speculation, price distortion, or disruption of delivery or the cash settlement process; and

''(C) to apply such recordkeeping requirements as the Commission determines are necessary.

''(2) CONSULTATION.—Prior to the issuance of any order under paragraph (1) to reduce a position on a foreign board of trade, exchange, or market located outside the United States (including the territories and possessions of the United States), the Commission shall consult with the foreign board of trade, exchange, or market and the appropriate regulatory authority.

''(3) ADMINISTRATION.—Nothing in this subsection limits any of the otherwise applicable authorities of the Commission.''.

SEC. 8. INDEX TRADERS AND SWAP DEALERS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 7) is amended by adding at the end the following:

''(g) INDEX TRADERS AND SWAP DEALERS.—Not later than 60 days after the date of enactment of this subsection, the Commission shall—

''(1) routinely require detailed reporting from index traders and swap dealers in markets under the jurisdiction of the Commission;

''(2) reclassify the types of traders for regulatory and reporting purposes to distinguish between index traders and swaps dealers; and

''(3) review the trading practices for index traders in markets under the jurisdiction of the Commission—

''(A) to ensure that index trading is not adversely impacting the price discovery process; and

''(B) to determine whether different practices or regulations should be implemented.''.

SEC. 9. DISAGGREGATION OF INDEX FUNDS AND OTHER DATA IN ENERGY MARKETS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 8) is amended by adding at the end the following:

''(h) DISAGGREGATION OF INDEX FUNDS AND DATA IN ENERGY MARKETS.—The Commission shall disaggregate and make public monthly—

''(1) the number of positions and total value of index funds and other passive, long-only positions in energy markets; and

''(2) data on speculative positions relative to bona fide physical hedgers in those markets.''.

By Mrs. FEINSTEIN (for herself and Mr. STEVENS):

S. 3131. A bill to amend the Commodity Exchange Act to ensure the application of speculation limits to speculators in energy markets, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. FEINSTEIN. Mr. President, I rise to introduce The Oil Speculation Control Act, a bill to reduce the impact of excessive speculation in the oil markets.

The legislation is cosponsored by Senator TED STEVENS.

Last week the price of oil hit $138 per barrel. A commodity that used to be priced at $11 a barrel is now swinging $11 in a single day. Yesterday it jumped $5—supposedly in response to a single Department of Energy report.

Gasoline prices now average more than $4.50 in California. Some gas stations have to charge by the half gallon. Their pumps cannot calculate in prices this high.

There seems to be no relief in sight for consumers as we enter the summer travel season.

In the Farm Bill Congress finally closed the ''Enron Loophole,'' and placed all major electronic trades that could drive energy prices under the watchful eye of the Commodity Futures Trading commission, CFTC.

Today I and Senator LEVIN introduced the Close the London Loophole Act to close another loophole. This bill would bring oversight to American energy commodities being traded beyond our borders.

I also joined Senator DURBIN in calling for the President to add 100 I enforcement professionals to the ranks of the CFTC.

However, these steps are not enough.

I believe we must do more to reduce the excessive speculation of institutional investors in oil markets.

So today I am introducing the Oil Speculation Control Act.

Let me explain what this bill would do.

First, it requires CFTC to review the trading practices of institutional investors and their dealers within 30 days:

It ensures that their trading is not adversely impacting the market price.

It determines whether different regulations are necessary:

It proposes to Congress regulations and legislation necessary to prevent the dramatic increase of fuel costs in the futures markets.

Second, the bill establishes reporting requirements. It requires institutional investors, such as pension funds or endowments, to report their energy market positions to the CFTC, even when trades are executed by a third party broker.

To further increase transparency, it would force CFTC regulations and reports to begin distinguishing between the institutional investors and the ''swaps dealers'' or ''index traders'' who broker their trades.

Third, the bill would force CFTC to limit institutional investor and index trader positions, as CFTC limits the positions of more traditional market speculators.

Fourth, it prevents CFTC from considering the positions of institutional investors or their brokers to be ''bone fide hedges'' that would be exempt from speculative position limits.

Finally, it requires that the Office of the CFTC's Inspector General be removed from the CFTC Chairman's Office and established as an independent office.

This bill is necessary because I believe that speculation in oil futures by large institutional investors and index funds is inflating the price of oil.

The unconstrained and overwhelming entrance of these new commodity investors, who have bet more than 99 percent of their funds on prices rising, must be controlled.

Recent testimony before numerous Congressional Committees indicates that between 2000 and 2002, major institutional investors began to view commodity futures markets as a new ''asset class'' suitable to be used in large financial portfolios. Since 2000, investment fund managers have come to believe that investing in commodities balances a stock portfolio.

As Daniel Yergin, one of the Nation's leading energy market experts put it: ''Oil has become the 'new gold'—a financial asset in which investors seek refuge as inflation rises and the dollar weakens.''

Never before have so many institutional investors made large scale investments in commodity markets, but from 2003 to 2008, investments in commodity index funds rose from $13 billion to $260 billion.

The implications for consumers of this shift are potentially devastating. Unlike gold, energy and agricultural commodities meet essential needs in the everyday lives of average Americans, and the potential risk that investment strategies will push the price of these goods higher during economic downturns presents a threat to the public welfare. I do not believe this is in the best interest of the American public.

Under the Commodity Exchange Act, the CFTC must impose speculation limits on the size of energy trader positions. Crude oil speculative positions are limited to a total of 20 million barrels of oil and 3 million barrels of oil in the last three days of a contract.

However, it is CFTC's practice to exempt institutional investors from such limits when investors execute their trades through brokers or dealers.

This is a mistake.

They are not hedging against the risk of changing oil prices, as airlines or utilities frequently must do.

They never take delivery of the product.

They participate in the oil markets only on paper.

This bill will assure that the existing speculation limit powers will constrain the market distortion resulting from this massive influx of capital. It will ensure a regulatory system that limits the size and influence of institutional investor positions in energy markets.

Even CFTC has realized that its policy may be mistaken.

Last month it announced that it will review the trading practices for index traders in the futures markets to ensure that this type of trading activity is not adversely impacting the price discovery process. They also plan to determine whether different practices should be employed.

Today's markets evolve quickly, and we need to make sure our market oversight responds just as quickly.

We now know that over the last few years a whole new kind of investor has entered oil markets. Institutional investors only bet that the price will go up. No matter how high the price goes, they pour into the market to push it higher.

We have ways to control this. We have speculation limits. But we are not using them. I am introducing this bill to make sure we use the tools we have.

As the markets continue to evolve, so must our regulation. I believe the Oil Speculation Control Act takes this step, and I encourage my colleagues to support it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Oil Speculation Control Act of 2008''.

SEC. 2. DEFINITION OF INSTITUTIONAL INVESTOR.

(a) DEFINITION.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended—

(1) by redesignating paragraphs (22) through (34) as paragraphs (23) through (35), respectively; and

(2) by inserting after paragraph (21) the following:

''(22) INSTITUTIONAL INVESTOR.—The term 'institutional investor' means a long-term investor in financial markets (including pension funds, endowments, and foundations) that—

''(A) invests in energy commodities as an asset class in a portfolio of financial investments; and

''(B) does not take or make physical delivery of energy commodities on a frequent basis, as determined by the Commission.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 13106(b)(1) of the Food, Conservation, and Energy Act of 2008 is amended by striking ''section 1a(32)'' and inserting ''section 1a''.

(2) Section 402(d)(1)(B) of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27(d)(1)(B)) is amended by striking ''section 1a(33)'' and inserting ''section 1a''.

SEC. 3. INSPECTOR GENERAL.

Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2(a)) is amended by adding at the end the following:

''(13) INSPECTOR GENERAL.—

''(A) OFFICE.—There shall be in the Commission, as an independent office, an Office of the Inspector General.

''(B) APPOINTMENT.—The Office shall be headed by an Inspector General, appointed in accordance with the Inspector General Act of 1978 (5 U.S.C. App.).

''(C) COMPENSATION.—The Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(D) ADMINISTRATION.—The Inspector General shall exert independent control of the budget allocations, expenditures, and staffing levels, personnel decisions and processes, procurement, and other administrative and management functions of the Office.''.

SEC. 4. TRADING PRACTICES REVIEW WITH RESPECT TO INDEX TRADERS, SWAP DEALERS, AND INSTITUTIONAL INVESTORS.

Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended by adding at the end the following:

''(e) TRADING PRACTICES REVIEW WITH RESPECT TO INDEX TRADERS, SWAP DEALERS, AND INSTITUTIONAL INVESTORS.—

''(1) REVIEW.—

''(A) IN GENERAL.—Not later than 30 days after the date of enactment of this subsection, the Commission shall carry out a review of the trading practices of index traders, swap dealers, and institutional investors in markets under the jurisdiction of the Commission—

''(i) to ensure that index trading is not adversely impacting the price discovery process;

''(ii) to determine whether different practices or regulations should be implemented; and

''(iii) to gather data for use in proposing regulations to limit the size and influence of institutional investor positions in commodity markets.

''(B) EMERGENCY AUTHORITY.—For the 60-day period described in subparagraph (A), in accordance with each applicable rule adopted under section 5(d)(6), the Commission shall exercise the emergency authority of the Commission to prevent institutional investors from increasing the positions of the institutional investors in—

''(i) energy commodity futures; and

''(ii) commodity future index funds.

''(2) REPORT.—Not later than 30 days after the date described in paragraph (1)(A), the Commission shall submit to the appropriate committees of Congress a report that contains recommendations for such legislation as the Commission determines to be necessary to limit the size and influence of institutional investor positions in commodity markets.''.

SEC. 5. BONA FIDE HEDGING TRANSACTIONS OR POSITIONS.

Section 4a(c) of the Commodity Exchange Act (7 U.S.C. 6a(c)) is amended by striking ''(c) No rule'' and inserting the following:

''(c) BONA FIDE HEDGING TRANSACTIONS OR POSITIONS.—

''(1) DEFINITION OF BONA FIDE HEDGING TRANSACTION OR POSITION.—The term 'bona fide hedging transaction or position' means a transaction or position that represents a hedge against price risk exposure relating to physical transactions involving an energy commodity.

''(2) APPLICATION WITH RESPECT TO BONA FIDE HEDGING TRANSACTIONS OR POSITIONS.—No rule''.

SEC. 6. SPECULATION LIMITS RELATING TO SPECULATORS IN ENERGY MARKETS.

Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) is amended by adding at the end the following:

''(f) SPECULATION LIMITS RELATING TO SPECULATORS IN ENERGY MARKETS.—

''(1) DEFINITION OF SPECULATOR.—In this subsection, the term 'speculator' includes any institutional investor or investor of an investment fund that holds a position through an intermediary broker or dealer.

''(2) ENFORCEMENT OF SPECULATION LIMITS.—The Commission shall enforce speculation limits with respect to speculators in energy markets.''.

SEC. 7. LARGE TRADER REPORTING WITH RESPECT TO INDEX TRADERS, SWAP DEALERS, AND INSTITUTIONAL INVESTORS.

Section 4g of the Commodity Exchange Act (7 U.S.C. 6g) is amended by adding at the end the following:

''(g) LARGE TRADER REPORTING WITH RESPECT TO INDEX TRADERS, SWAP DEALERS, AND INSTITUTIONAL INVESTORS.—

''(1) IN GENERAL.—Each recordkeeping and reporting requirement under this section relating to large trader transactions and positions shall apply to index traders, swaps dealers, and institutional investors in markets under the jurisdiction of the Commission.

''(2) PROMULGATION OF REGULATIONS.—As soon as practicable after the date of enactment of this subsection, the Commission shall promulgate regulations to establish separate classifications for index traders, swaps dealers, and institutional investors—

''(A) to enforce the recordkeeping and reporting requirements described in paragraph (1); and

''(B) to enforce position limits and position accountability levels with respect to energy commodities under section 4a(f).''.

SEC. 8. INSTITUTIONAL INVESTOR SPECULATION LIMITS.

(a) CORE PRINCIPLES APPLICABLE TO SIGNIFICANT PRICE DISCOVERY CONTRACTS.—Section 2(h)(7)(C)(ii)(IV) of the Commodity Exchange Act (7 U.S.C. 2(h)(7)(C)(ii)(IV)) is amended by inserting after ''speculators'' the following: ''(including institutional investors that do not take delivery of energy commodities and that hold positions in energy commodities through swaps dealers or other third parties)''.

(b) CORE PRINCIPLES FOR CONTRACT MARKETS.—Section 5(d)(5) of the Commodity Exchange Act (7 U.S.C. 7(d)(5)) is amended by inserting after ''speculators'' the following: ''(including institutional investors that do not take delivery of energy commodities and that hold positions in energy commodities through swaps dealers or other third parties)''.

By Mr. DODD (for himself, Mr. DURBIN, and Mr. MENENDEZ):

S. 3133. A bill to direct the Secretary of the Interior to establish an annual production incentive fee with respect to Federal onshore and offshore land that is subject to a lease for production of oil or natural gas under which production is not occurring, to authorize use of the fee for energy efficiency and renewable energy projects, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DODD. Mr. President, I rise today to introduce the Responsible Ownership of Public Land Act. I thank my friends Congressmen RAHM EMANUEL, ED MARKEY, MAURICE HINCHEY, and NICK RAHALL for their leadership on this issue in the other chamber. With the issue of oil and gas prices at the forefront of our national consciousness, this bill is timely and critically needed.

As gas prices across the Nation soar to shocking, unprecedented levels, we can all agree that the time has come to end our dependence on oil. But that can't happen unless we also commit to something the Bush administration and its allies in Congress have refused to:

End our dependence on the oil companies—on letting them hold the American people and economy hostage to rising prices that have no end in sight.

In my home State of Connecticut, a gallon of regular unleaded gasoline today reached $4.36. That is an increase of 41 cents from just a month ago—and $1.12 from only a year ago. For reasons that economists seem at a loss to explain, my State today has the second-highest gas prices in the Nation. It seems that every single day we turn on the television or open a newspaper, we hear about new records being set for the price of a barrel of oil or how much people are paying at the pump.

The rising price of gas only begins at the pump. It is also causing prices to rise at the grocery store and elsewhere. Wherever they go, families are feeling economic pressure like never before—finding themselves forced to make difficult decisions and cut down on spending in other areas simply so they can afford to commute to work or take their kids to school. Too often they are forced to choose between food, gas, utilities, and lifesaving medications.

In my view there are many things we need to do to address this pressing issue. In the long term we need to develop clean, renewable energy sources that will alleviate our dependence on foreign oil that often comes from unstable, hostile regimes and create new green jobs here at home. But in the short term, we need to take steps to help out families who are hurting and angry and need relief.

One idea we hear time and again from President Bush and his Republican allies is that the answer to our energy problems is to open up environmentally fragile areas of the Arctic National Wildlife Refuge to more drilling. In response, I would point out that there are already 44 million offshore acres that have been leased by oil companies, who have only put 10.5 million of those acres into production. Of the 47.5 million onshore acres under lease for oil and gas production, only 13 million are in production.

Combined, oil and gas companies hold leases to 68 million acres of Federal land and waters that they are not producing any oil and gas on. This is compared to the 1.5 million acres that make up ANWR that proponents of drilling there would like to see opened up. Instead of putting pristine wilderness in grave peril, these companies should first be producing on acres already under lease. The vast majority of oil and natural gas resources on Federal land are already open for drilling and are not being tapped, and the oil and gas resources available in the unused land under lease far outstrips what is available in ANWR and other areas closed to drilling.

Therefore, I am offering this legislation as a solution to this problem—a production incentive fee for acres under lease that are not in production. This fee would rise with the number of years the land has been under lease but not used. The revenue raised by these fees could be used to fund the development of clean, renewable energy, energy efficiency, and programs such as LIHEAP that help families struggling with sky-high energy prices.

Over the last 8 years, President Bush, Vice President CHENEY and their allies in this body have done all they can to block any progress toward energy independence. They have belittled and undermined policies and technologies that, had they been adopted, would have helped consumers avoid the deplorable situation they find themselves in today.

As a result, American families are now at the mercy of foreign dictators, market speculators, and big oil companies reaping enormous profits—the largest profits in corporate history.

As a result, every time the price of a gallon of gas reaches a new record, Americans are the ones paying the price of this administration's inaction.

It is time to end our dependence on the oil companies. This bill would start that process by saying the time has come to put the American people first.

It is my hope that with the introduction of the Responsible Ownership of Public Land Act, we can begin again to work toward delivering the kind of change American families are desperate for. I ask that my colleagues join me in supporting this commonsense effort to responsibly address the Nation's desperate energy needs.

By Mr. NELSON of Florida:

S. 3134. A bill to amend the Commodity Exchange Act to require energy commodities to be traded only on regulated markets, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. NELSON of Florida. Mr. President, many experts have concluded that the skyrocketing price of oil reflects not just the realities of supply and demand but also the influence of speculators and futures traders. Many of these speculators work for funds and investment banks with no actual inventory of oil, and thus no business need to hedge against an increase in the price of oil. Put simply, they enter the energy futures market to make a profit by gambling on the price per barrel.

Last month, with passage of the Farm Bill, the Congress finally succeeded in bringing a measure of oversight and transparency to this market, requiring the Commodities Future Trading Commission, CFTC, to review all contracts to determine which ones should be regulated as though traded on a major public exchange.

While this was a step in the right direction, and the result of much thoughtful discussion and debate, it could be improved upon and strengthened. I am basing this on testimony heard by the Commerce Committee on June 3 from Michael Greenberger, former director of CFTC's Division of Trading and Markets. Mr. Greenberger has emerged as a leading expert on the current state of our Nation's energy markets.

In light of these developments and to add to the growing debate about how to protect consumers and our economy from rampant speculation, I'm now introducing a bill to shut down the unregulated oil futures markets created by the now-infamous ''Enron loophole.'' It also removes energy from the list of exempt commodities; requires energy to be traded on a regulated market, and creates a new definition of what constitutes an energy commodity.

As the Senate continues to debate and ultimately consider proposals related to energy market speculation, the influence of large investors, regulated and unregulated exchanges, I would ask that my colleagues also consider the ideas put forward in this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REGULATION OF ENERGY COMMODITIES.

(a) DEFINITIONS.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended—

(1) by redesignating paragraphs (13) through (34) as paragraphs (14) through (35), respectively;

(2) by inserting after paragraph (12) the following:

''(13) ENERGY COMMODITY.—The term 'energy commodity' includes—

''(A) crude oil;

''(B) natural gas;

''(C) heating oil;

''(D) gasoline;

''(E) metals;

''(F) construction materials;

''(G) propane; and

''(H) other fuel oils.''; and

(3) by striking paragraph (15) (as redesignated by paragraph (1)) and inserting the following:

''(15) EXEMPT COMMODITY.—The term 'exempt commodity' means a commodity that is not—

''(A) an agricultural commodity;

''(B) an energy commodity; or

''(C) an excluded commodity.''.

(b) CURRENT AGRICULTURAL COMMODITIES.—Section 5(e)(1) of the Commodity Exchange Act (7 U.S.C. 7(e)(1)) is amended by striking ''agricultural commodity enumerated in section 1a(4)'' and inserting ''agricultural commodity or an energy commodity''.

(c) CONFORMING AMENDMENTS.—

(1) Section 2(c)(2)(B)(i)(II)(cc) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)(i)(II)(cc)) is amended—

(A) in subitem (AA), by striking ''section 1a(20)'' and inserting ''section 1a(21)''; and

(B) in subitem (BB), by striking ''section 1a(20)'' and inserting ''section 1a(21)''.

(2) Section 13106(b)(1) of the Food, Conservation, and Energy Act of 2008 is amended by striking ''section 1a(32)'' and inserting ''section 1a''.

(3) Section 402 of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27) is amended—

(A) in subsection (a)(7), by striking ''section 1a(20)'' and inserting ''section 1a''; and

(B) in subsection (d)—

(i) in paragraph (1)(B), by striking ''section 1a(33)'' and inserting ''section 1a''; and

(ii) in paragraph (2)(D), by striking ''section 1a(13)'' and inserting ''section 1a''.

By Mr. NELSON of Florida:

S. 3135. A bill to amend the Outer Continental Shelf Lands Act to provide for the establishment of a production incentive fee for nonproducing leases; to the Committee on Energy and Natural Resources.

Mr. NELSON of Florida. Mr. President, today I have introduced legislation which will impose a fee of no less than $5 per acre per year for Federal lands leased in the Outer Continental Shelf, specifically within the Gulf of Mexico.

It is my hope this legislation will improve the management of the nation's oil and gas leasing program, a program that has greatly expanded in recent years. Since the 1990s, the federal government has consistently encouraged the development of its oil and gas resources and drilling on federal lands has steadily increased during this time. The number of drilling permits issued for lands on and offshore has exploded in recent years, going from 3,802 five years ago to 7,561 in 2007.

Let me also share some statistics prepared by the House Resources Committee regarding offshore energy resources. On the Outer Continental Shelf, 82 percent of federal natural gas and 79 percent of Federal oil is located in areas that are currently open for leasing. Offshore, only 10.5 million of the 44 million leased acres are currently producing oil or gas.

It is simply, unfair, dishonest, and disingenuous to try to persuade the American people that all we need to do is drill. In fact, I have concerns the oil companies are hoarding a resource that belongs to the United States of America and sitting upon it until the price is right for them to drill. Before we open up more areas for leasing, we must first use what we have. That makes sense to me.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Outer Continental Shelf Production Incentive Fee Act''.

SEC. 2. PRODUCTION INCENTIVE FEE.

Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

''(q) PRODUCTION INCENTIVE FEE.—

''(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall establish, by regulation, a fee for any nonproducing oil or gas leases on outer Continental Shelf land in the Gulf of Mexico that are in effect on the date of enactment of this subsection.

''(2) AMOUNT.—The amount of the fee established under paragraph (1) shall be at a rate established by the Secretary by regulation, but shall be not less than $5 per acre per year.

''(3) ASSESSMENT AND COLLECTION.—The Secretary shall assess and collect the fee established under paragraph (1) on an annual basis, in accordance with procedures established by the Secretary by regulation.

''(4) DISPOSITION.—Notwithstanding section 9, any amounts collected under paragraph (3) shall be—

''(A) available to the Secretary of the Interior for use in accordance with the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.); and

''(B) treated as offsetting receipts.''.

By Mr. MCCONNELL (for himself, Mrs. FEINSTEIN, Mr. MCCAIN, Mr. BIDEN, Mr. ALLARD, Mr. BENNETT, Mr. BUNNING, Mr. BURR, Ms. CANTWELL, Mrs. CLINTON, Mr. COLEMAN, Mrs. DOLE, Mr. DURBIN, Mr. ENSIGN, Mr. FEINGOLD, Mr. ISAKSON, Mr. LEAHY, Mr. MARTINEZ, Mr. MENENDEZ, Ms. MURKOWSKI, Mr. SMITH, Ms. SNOWE, Mr. SUNUNU, Mr. WHITEHOUSE, Mr. WYDEN, Mr. BINGAMAN, and Mr. BROWN):

S.J. Res. 41. A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003; to the Committee on Finance.

Mr. MCCONNELL. Mr. President, I rise to introduce the Burmese Freedom and Democracy Act. This legislation continues the sanctions that are already in place against the illegitimate

ruling Burmese regime, the State Peace and Development Council, or SPDC.

Last month, the whole world got a close look at the SPDC's contempt for human life when a devastating cyclone hit Burma. No one can say with certainty what the full toll of death and destruction is from the storm—but we do know the junta greatly compounded matters through inaction and its utter disregard for the Burmese people.

The SPDC severely restricted the entry of relief workers into the country. Four U.S. Navy ships carrying much-needed supplies for the Burmese people were turned away time and again by the regime.

Estimates put as many as 135,000 people dead or missing after the cyclone hit on May 3, and many of those deaths must lie at the feet of the SPDC for its outrageous acts of criminal neglect.

These sanctions, if enacted, would make clear to the SPDC that the United States continues to stand squarely with the long-suffering people of Burma and against the morally bankrupt junta.

This bill is the same legislation the Senate has passed in prior years. If enacted, it would extend import sanctions for another year unless the regime takes a number of tangible steps toward democracy and reconciliation.

I and many others believe these sanctions should be tightened even further, but those efforts will be pursued at a later date in separate legislation.

I am joined, as always, by two colleagues who are both steadfast and longtime advocates for the freedom of the Burmese people: Senator DIANNE FEINSTEIN and Senator JOHN MCCAIN. I am proud to stand alongside these two friends in support of this important legislation.

Before I close I want to clarify one important point for my colleagues. This bill would in no way hinder or block America's continuing efforts to provide humanitarian aid to the people in Burma in the wake of the cyclone. This bill imposes sanctions on trade, not humanitarian aid.

America is a friend to the people of Burma. That is why we stand against Burma's tyrannical ruling regime. I hope my colleagues will continue to support this bill and continue to send that message to the SPDC.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the text of the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 41

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress approves the renewal of the import restrictions contained in section 3(a)(1) of the Burmese Freedom and Democracy Act of 2003.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 592—COMMENDING THE TENNESSEE VALLEY AUTHORITY ON ITS 75TH ANNIVERSARY

Mr. ALEXANDER (for himself, Mr. CORKER, Mr. COCHRAN, and Mr. WICKER) submitted the following resolution; which was considered and agreed to:

S. RES. 592

Whereas May 18, 2008, marks the 75th anniversary of the Tennessee Valley Authority;

Whereas the Tennessee Valley Authority was created by Congress in 1933 to improve navigation along the Tennessee River, reduce the risk of flood damage, provide electric power, and promote agricultural and industrial development in the region;

Whereas the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.) was signed into law by President Franklin D. Roosevelt on May 18, 1933;

Whereas the Tennessee Valley Authority continues to serve the Tennessee Valley, providing reliable and affordable electricity, managing the Tennessee River system, and stimulating economic growth;

Whereas the Tennessee Valley Authority provides more electricity than any other public utility in the Nation and has competitive rates and reliable transmission;

Whereas the Tennessee Valley Authority is expanding its environmental policy to increase its renewable energy sources, improve energy efficiency, and provide clean energy in the Tennessee Valley region;

Whereas the Tennessee Valley Authority continues to reduce power plant emissions and is working to further improve air quality for the health of individuals in the Tennessee Valley region;

Whereas the Tennessee Valley Authority is a leader in the nuclear power industry, with multi-site nuclear power operations that provide approximately 30 percent of the Tennessee Valley Authority's power supply;

Whereas, as part of NuStart Energy Consortium, the Tennessee Valley Authority submitted one of the first combined operating license applications for a new nuclear power plant in 30 years;

Whereas the Tennessee Valley Authority's integrated management of the Tennessee River system provides a wide range of benefits that include providing electrical power, reducing floods, facilitating freight transportation, improving water quality and supply, enhancing recreation, and protecting public land;

Whereas the Tennessee Valley Authority builds business and community partnerships that foster economic prosperity, helping companies and communities attract investments that bring good jobs to the Tennessee Valley region and keep them there; and

Whereas the Tennessee Valley Authority no longer receives appropriations to help fund its activities in navigation, flood control, environmental research, and land management, because the Tennessee Valley Authority pays for all its activities through power sales and issuing bonds: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Tennessee Valley Authority on its 75th anniversary;

(2) recognizes the Tennessee Valley Authority for its long and proud history of service in the areas of energy, the environment, and economic development in a service area that includes 7 States;

(3) honors the accomplishments of the Board of Directors, retirees, staff, and supporters of the Tennessee Valley Authority who were instrumental during the Tennessee Valley Authority's first 75 years; and

(4) directs the Secretary of the Senate to transmit a copy of this resolution to the Chairman of the Board of the Tennessee Valley Authority, Bill Sansom, and the Chief Executive Officer of the Tennessee Valley Authority, Tom Kilgore, for appropriate display.

SENATE RESOLUTION 593—HONORING THE DETROIT RED WINGS ON WINNING THE 2008 NATIONAL HOCKEY LEAGUE STANLEY CUP CHAMPIONSHIP

Mr. LEVIN (for himself and Ms. STABENOW) submitted the following resolution; which was considered and agreed to:

S. RES. 593

Whereas, on June 4, 2008, the Detroit Red Wings defeated the Pittsburgh Penguins, 3 to 2 in game 6 of the National Hockey League Stanley Cup Finals;

Whereas that triumph marks the 11th Stanley Cup Championship in the history of the Red Wings, bringing the total number of Stanley Cup Championships won by the Red Wings to more than the number won by any other professional hockey team in the United States;

Whereas that triumph also marks the fourth Stanley Cup Championship for the Red Wings in 11 seasons, building on the team's reputation as one of the greatest dynasties in the history of the National Hockey League;

Whereas the championship win caps a historic season in which the Red Wings set a National Hockey League record for the most victories during the first half of the regular season (30-8-3), captured a seventh consecutive division title, earned a berth in the Stanley Cup playoffs for the 17th consecutive season, and won a sixth Presidents' Cup Trophy for the best regular season record in the National Hockey League;

Whereas, led by Captain Nicklas Lidstrom, the Red Wings, employing a combination of both youth and experience, became National Hockey League champions through pure grit and determination;

Whereas Nicklas Lidstrom, born in Västerås, Sweden, became the first European-born National Hockey League player to captain a Stanley Cup Championship team;

Whereas Henrik Zetterberg, through his hard work and skill on both ends of the ice, won the Conn Smythe Trophy for the most valuable player in the playoffs;

Whereas Nicklas Lidstrom, Kris Draper, Kirk Maltby, Tomas Holmstrom, and Darren McCarty have all been members of the team for the last 4 Stanley Cups won by the Red Wings, and Chris Osgood, Chris Chelios, and Brian Rafalski have each earned their third Stanley Cup Championship;

Whereas Marian and Mike Ilitch, the owners of the Red Wings and community leaders in Michigan, have once again returned Lord Stanley's Cup to the city of Detroit;

Whereas Red Wings head coach Mike Babcock, following in the footsteps of the great Scotty Bowman, has won his first Stanley Cup Championship;

Whereas the Red Wings, who have played in Detroit since 1926, continue to be prized and cherished by all Michiganders and Red Wing fans across the country;

Whereas, since 1952, Red Wings fans have continued the tradition of the ''Legend of the Octopus'', throwing octopi onto the ice, each of the 8 tentacles symbolizing the original 8 games needed to win the Stanley Cup;

Whereas Detroit, otherwise known as ''Hockeytown, U.S.A.'', is home to the most loyal fan base in the world;

Whereas the passion and support of all Red Wings fans have assisted the team through this long and difficult season, enabling the players to achieve the greatest prize in all of hockey, the Stanley Cup;

Whereas each Red Wings player made a valuable contribution to the team's success and will be remembered on the most illustrious sports trophy, the Stanley Cup; and

Whereas those Red Wings players are Chris Chelios, Dan Cleary, Pavel Datsyuk, Aaron Downey, Dallas Drake, Kris Draper, Jonathan Ericsson, Valtteri Filppula, Johan Franzen, Mark Hartigan, Dominik Hasek, Tomas Holmstrom, Jimmy Howard, Jiri Hudler, Tomas Kopecky, Niklas Kronwall, Brett Lebda, Nicklas Lidstrom, Andreas Lilja, Justin Abdelkader, Kirk Maltby, Darren McCarty, Derek Meech, Chris Osgood, Kyle Quincey, Brian Rafalski, Mikael Samuelsson, Mattias Ritola, Darren Helm, Jakub Kindl, Brad Stuart, and Henrik Zetterberg: Now, therefore, be it

Resolved, That the Senate congratulates the Detroit Red Wings on winning the 2008 National Hockey League Stanley Cup Championship.

SENATE RESOLUTION 594—DESIGNATING SEPTEMBER 2008 AS ''TAY-SACHS AWARENESS MONTH''

Mr. BROWN submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 594

Whereas Tay-Sachs disease is a rare, genetic disorder that causes destruction of nerve cells in the brain and spinal cord due to the poor functioning of an enzyme called beta-hexosaminidase A;

Whereas there is no proven treatment or cure for Tay-Sachs disease and the disease is always fatal in children;

Whereas the disorder was named after Warren Tay, an ophthalmologist from the United Kingdom, and Bernard Sachs, a neurologist from the United States, both of whom contributed to the discovery of the disease in 1881 and 1887, respectively;

Whereas Tay-Sachs disease often affects families with no prior history of the disease;

Whereas approximately 1 in 27 Ashkenazi Jews, 1 in 30 Louisianan Cajuns, 1 in 30 French Canadians, 1 in 50 Irish Americans, and 1 in every 250 people are carriers of Tay-Sachs disease, which means approximately 1,200,000 Americans are carriers;

Whereas these unaffected carriers of the disease possess the recessive gene that can trigger the disease in future generations;

Whereas, if both parents of a child are carriers of Tay-Sachs disease, there is a 1 in 4 chance that the child will develop Tay-Sachs disease;

Whereas a simple and inexpensive blood test can determine if an individual is a carrier of Tay-Sachs disease, and all people in the United States, especially those citizens who are members of high-risk populations, should be screened; and

Whereas raising awareness of Tay-Sachs disease is the best way to fight this horrific disease: Now, therefore, be it

Resolved, That the Senate designates September 2008 as ''Tay-Sachs Awareness Month''.

SENATE CONCURRENT RESOLUTION 90—HONORING THE MEMBERS OF THE UNITED STATES AIR FORCE WHO WERE KILLED IN THE JUNE 25, 1996, TERRORIST BOMBING OF THE KHOBAR TOWERS UNITED STATES MILITARY HOUSING COMPOUND NEAR DHAHRAN, SAUDI ARABIA

Mr. MARTINEZ (for himself, Mr. BURR, Mr. WICKER, Mr. INHOFE, Mr. SUNUNU, Mr. NELSON of Florida, Mr. BAYH, and Mr. PRYOR) submitted the following concurrent resolution; which was referred to the Committee on Armed Services:

S. CON. RES. 90

Whereas June 25, 2008, marks the 12th anniversary of the terrorist bombing of the Khobar Towers United States military housing compound in Dhahran, Saudi Arabia, on June 25, 1996;

Whereas 19 members of the United States Air Force were killed, more than 500 other citizens of the United States were injured, and 297 innocent citizens of Saudi Arabia or Bangladesh were killed or injured in the terrorist attack;

Whereas the 19 members of the United States Air Force killed while serving the United States were Captain Christopher J. Adams, Staff Sergeant Daniel B. Cafourek, Sergeant Millard D. Campbell, Senior Airman Earl F. Cartrette, Jr., Technical Sergeant Patrick P. Fennig, Captain Leland T. Haun, Master Sergeant Michael G. Heiser, Staff Sergeant Kevin J. Johnson, Staff Sergeant Ronald L. King, Master Sergeant Kendall K. Kitson, Jr., Airman First Class Christopher B. Lester, Airman First Class Brent E. Marthaler, Airman First Class Brian W. McVeigh, Airman First Class Peter J. Morgera, Technical Sergeant Thanh V. Nguyen, Airman First Class Joseph E. Rimkus, Senior Airman Jeremy A. Taylor, Airman First Class Justin R. Wood, and Airman First Class Joshua E. Woody;

Whereas the families of those brave members of the Air Force still mourn their loss;

Whereas 3 months after the terrorist bombing, on September 24, 1996, the House of Representatives agreed to House Concurrent Resolution 200, 104th Congress, honoring the victims of the terrorist bombing;

Whereas, on June 25, 2001, the fifth anniversary of the terrorist bombing, the House of Representatives agreed to House Concurrent Resolution 161, 107th Congress, which was concurred in by the Senate on July 12, 2002, further honoring the victims of the bombing;

Whereas, on December 11, 2001, the Senate agreed to Senate Concurrent Resolution 55, 107th Congress, also marking the fifth anniversary of the terrorist bombing and honoring the victims of the bombing;

Whereas, on June 27, 2005, the House of Representatives agreed to House Concurrent Resolution 188, 109th Congress, further honoring the victims of the terrorist bombing;

Whereas those guilty of carrying out the attack have yet to be brought to justice; and

Whereas terrorism remains a constant and ever-present threat around the world: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That, on the occasion of the 12th anniversary of the terrorist bombing of the Khobar Towers United States military housing compound in Dhahran, Saudi Arabia, Congress—

(1) recognizes the service and sacrifice of the 19 members of the United States Air Force who died in the attack;

(2) calls upon the people of the United States to pause and pay tribute to those brave members of the Air Force;

(3) extends its continued sympathies to the families of those who died; and

(4) assures all members of the Armed Forces serving anywhere in the world that their well-being and interests will at all times be given the highest priority.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4980. Mr. NELSON of Florida (for himself, Mr. REID, Mr. JOHNSON, and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 3101, to amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes; which was ordered to lie on the table.

SA 4981. Mr. REID (for himself, Mr. LEVIN, Mr. BROWN, Ms. STABENOW, Mr. LAUTENBERG, and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill S. 3101, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4980. Mr. NELSON of Florida (for himself, Mr. REID, Mr. JOHNSON, and Mr. PRYOR) submitted an amendment intended to be proposed by him to the bill S. 3101, to amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. INCREASING THE MEDICARE CAPS ON GRADUATE MEDICAL EDUCATION POSITIONS FOR STATES WITH A SHORTAGE OF RESIDENTS.

(a) DIRECT GRADUATE MEDICAL EDUCATION.—Section 1886(h)(4)(F) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(F)) is amended—

(1) in clause (i), by inserting ''clause (iii) and'' after ''subject to''; and

(2) by adding at the end the following new clause:

''(iii) INCREASE IN CAPS ON GRADUATE MEDICAL EDUCATION POSITIONS FOR STATES WITH A SHORTAGE OF RESIDENTS.—

''(I) IN GENERAL.—For cost reporting periods beginning on or after the date that is 16 months after the date of the enactment of this clause, the Secretary shall increase the otherwise applicable limit on the total number of full-time equivalent residents in the field of allopathic or osteopathic medicine determined under clause (i) with respect to a qualifying hospital in an eligible State by an amount determined appropriate by the Secretary. Such increase shall be phased-in over a period of 5 cost reporting periods beginning with the first cost reporting period in which the increase is applied under the previous sentence to the hospital. For each eligible State the aggregate number of such increases shall be—

''(aa) not less than 15; and

''(bb) not greater than the State resident cap increase.

''(II) QUALIFYING HOSPITAL.—In this clause, the term 'qualifying hospital' means a hospital located in an eligible State that the Secretary determines should receive an increase under this clause in the otherwise applicable limit on the total number of full-time equivalent residents in the field of allopathic or osteopathic medicine.

''(III) ELIGIBLE STATE.—In this clause, the term 'eligible State' means a State for which the National median medical resident ratio exceeds the State medical resident ratio.

''(IV) STATE RESIDENT CAP INCREASE.—In this clause, the term 'State resident cap increase' means, with respect to a State, ¼ of the product of—

''(aa) the difference between the National median medical resident ratio and the State medical resident ratio; and

''(bb) the State population (as determined for purposes of subclause (VI)).

''(V) NATIONAL MEDIAN MEDICAL RESIDENT RATIO.—In this clause, the term 'National median medical resident ratio' means the median of all State medical resident ratios.

''(VI) STATE MEDICAL RESIDENT RATIO.—In this clause, the term 'State medical resident ratio' means, with respect to any State, the ratio of full-time equivalent residents in the State in approved medical residency training programs as of the date of the enactment of this clause to the population of the State as of such date, as determined by the Secretary.

''(VII) STATE.—In this clause, the term 'State' means a State and the District of Columbia.

''(VIII) CONSIDERATIONS IN DETERMINING RESIDENT CAP INCREASES.—In determining whether a hospital is a qualifying hospital, and how much of an increase in the resident cap a qualifying hospital shall receive under subclause (I), the Secretary shall take into consideration the demonstrated likelihood of the hospital filling resident positions that would be made available as a result of such increase within the first 3 cost reporting periods beginning on or after the date that is 16 months after the date of the enactment of this clause. The Secretary shall also take into consideration whether the new resident positions will be in primary care, preventive medicine, or geriatrics programs.''.

(b) INDIRECT MEDICAL EDUCATION.—Section 1886(d)(5)(B) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)) is amended by adding at the end the following new clause:

''(x) Clause (iii) of subsection (h)(4)(F) shall apply to clause (v) in the same manner and for the same period as such clause (iii) applies to clause (i) of such subsection.''.

SA 4981. Mr. REID (for himself, Mr. LEVIN, Mr. BROWN, Ms. STABENOW, Mr. LAUTENBERG, and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill S. 3101, to amend titles XVIII and XIX of the Social Security Act to extend expiring provisions under the Medicare program, to improve beneficiary access to preventive and mental health services, to enhance low-income benefit programs, and to maintain access to care in rural areas, including pharmacy access, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. TREATMENT OF CERTAIN CANCER HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(1) of the Social Security Act (42 U.S.C. 1395ww(d)(1)) is amended—

(1) in subparagraph (B)(v)—

(A) by striking ''or'' at the end of subclause (II); and

(B) by adding at the end the following:

''(IV) a hospital that is a nonprofit corporation, the sole member of which is affiliated with a university that has been the recipient of a cancer center support grant from the National Cancer Institute of the National Institutes of Health, and which sole member (or its predecessors or such university) was recognized as a comprehensive cancer center by the National Cancer Institute of the National Institutes of Health as of April 20, 1983, if the hospital's articles of incorporation specify that at least 50 percent of its total discharges have a principal finding of neoplastic disease (as defined in subparagraph (E)) and if, of December 31, 2005, the hospital was licensed for less than 150 acute care beds, or

''(V) a hospital (aa) that the Secretary has determined to be, at any time on or before December 31, 2011, a hospital involved extensively in treatment for, or research on, cancer, (bb) that is (as of the date of such determination) a free-standing facility, (cc)(aaa) for which the hospital's predecessor provider entity was University Hospitals of Cleveland with medicare provider number 36–0137, or (bbb) received the designation on June 10, 2003, as the official cancer institute of its State;'';

(2) in subparagraph (B), by inserting after clause (v) the following new clause:

''(vi) a hospital that—

''(I) is located in a State that as of December 31, 2006, had only one center under section 414 of the Public Health Service Act that has been designated by the National Cancer Institute as a comprehensive center currently serving all 21 counties in the most densely populated State in the nation (U.S. Census estimate for 2005: 8,717,925 persons; 1,134.5 persons per square mile), serving more than 70,000 patient visits annually;

''(II) as of December 31, 2006, served as the teaching and clinical care, research and training hospital for the Center described in subclause (II), providing significant financial and operational support to such Center;

''(III) as of December 31, 2006, served as a core and essential element in such Center which conducts more than 130 clinical trial activities, national cooperative group studies, investigator-initiated and peer review studies and has received as of 2005 at least $93,000,000 in research grant awards;

''(IV) as of December 31, 2006, includes dedicated patient care units organized primarily for the treatment of and research on cancer with approximately 125 beds, 75 percent of which are dedicated to cancer patients, and contains a radiation oncology department as well as specialized emergency services for oncology patients; and

''(V) as of December 31, 2004, is identified as the focus of the Center's inpatient activities in the Center's application as a NCI-designated comprehensive cancer center and shares the NCI comprehensive cancer designation with the Center;''; and

(3) in subparagraph (E)—

(A) by striking ''subclauses (II) and (III)'' and inserting ''subclauses (II), (III), and (IV)''; and

(B) by inserting ''and subparagraph (B)(vi)'' after ''subparagraph (B)(v)''.

(b) EFFECTIVE DATES; PAYMENTS.—

(1) APPLICATION TO COST REPORTING PERIODS.—

(A) Any classification by reason of section 1886(d)(1)(B)(vi) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(vi)), as inserted by subsection (a), shall apply to cost reporting periods beginning on or after January 1, 2006.

(B) The provisions of section 1886(d)(1)(B)(v)(IV) of the Social Security Act, as added by subsection (a), shall take effect on January 1, 2008.

(2) BASE TARGET AMOUNT.—Notwithstanding subsection (b)(3)(E) of section 1886 of the Social Security Act (42 U.S.C. 1395ww), in the case of a hospital described in subsection (d)(1)(B)(vi) of such section, as inserted by subsection (a)—

(A) the hospital shall be permitted to resubmit the 2006 Medicare 2552 cost report incorporating a cancer hospital sub-provider number and to apply the Medicare ratio-of-cost-to-charge settlement methodology for outpatient cancer services; and

(B) the hospital's target amount under subsection (b)(3)(E)(i) of such section for the first cost reporting period beginning on or after January 1, 2006, shall be the allowable operating costs of inpatient hospital services (referred to in subclause (I) of such subsection) for such first cost reporting period.

(3) DEADLINE FOR PAYMENTS.—Any payments owed to a hospital as a result of this subsection for periods occurring before the date of the enactment of this Act shall be made expeditiously, but in no event later than 1 year after such date of enactment.

(c) APPLICATION TO CERTAIN HOSPITALS.—

(1) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—The provisions of section 412.22(e) of title 42, Code of Federal Regulations, shall not apply to a hospital described in section 1886(d)(1)(B)(v)(V) of the Social Security Act, as added by subsection (a).

(2) APPLICATION TO COST REPORTING PERIODS.—If the Secretary makes a determination that a hospital is described in section 1886(d)(1)(B)(v)(V) of the Social Security Act, as added by subsection (a), such determination shall apply as of the first cost reporting period beginning on or after the date of such determination.

(3) BASE PERIOD.—Notwithstanding the provisions of section 1886(b)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(E)) or any other provision of law, the base cost reporting period for purposes of determining the target amount for any hospital for which a determination described in paragraph (2) has been made shall be the first full 12-month cost reporting period beginning on or after the date of such determination.

(4) RULE.—A hospital described in subclause (V) of section 1886(b)(1)(B)(v) of the Social Security Act, as added by subsection (a), shall not qualify as a hospital described in such subclause for any cost reporting period in which less than 50 percent of its total discharges have a principal finding of neoplastic disease. With respect to the first cost reporting period for which a determination described in paragraph (2) has been made, the Secretary shall accept a self-certification by the hospital, which shall be applicable to such first cost reporting period, that the hospital intends to have total discharges during such first cost reporting period of which 50 percent or more have a principal finding of neoplastic disease.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 12, 2008 at 10 a.m. to conduct a hearing entitled ''Condition of Our Nation's Infrastructure: Perspectives From Mayors.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, June 12, 2008, at 10 a.m., in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized meet during the session of the Senate on Thursday, June 12, 2008, at 2:15 p.m., in room SD366 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, June 12, 2008, at 10 a.m., in room 215 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 12, 2008, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet during the session of the Senate, to conduct an executive business meeting on Thursday, June 12, 2008, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on Thursday, June 12, 2008, at 2:30 p.m. to conduct a hearing entitled, ''Addressing the U.S.-Pakistan Strategic Relationship.''

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. DURBIN. Mr. President, on behalf of Senator STEVENS, I ask unanimous consent that the privilege of the floor be granted to Rebecca Gilman, Jessica Kazmierczak, Kate Williams, and Kevin Simpson.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 6049

Mr. DURBIN. Mr. President, I ask unanimous consent that the cloture vote on the motion to proceed to H.R. 6049 occur on Monday, June 16, at 5:30 p.m., and that following morning business on Monday, the Senate resume the motion to proceed with all time until 5:30 p.m. equally divided and controlled between the leaders or their designees, with the 20 minutes immediately prior to the vote controlled between the majority and Republican leaders, with the majority leader controlling the final 10 minutes, and that the mandatory quorum call be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

75TH ANNIVERSARY OF THE TENNESSEE VALLEY AUTHORITY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 592, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 592) commending the Tennessee Valley Authority on its 75th anniversary.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 592) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 592

Whereas May 18, 2008, marks the 75th anniversary of the Tennessee Valley Authority;

Whereas the Tennessee Valley Authority was created by Congress in 1933 to improve navigation along the Tennessee River, reduce the risk of flood damage, provide electric power, and promote agricultural and industrial development in the region;

Whereas the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831 et seq.) was signed into law by President Franklin D. Roosevelt on May 18, 1933;

Whereas the Tennessee Valley Authority continues to serve the Tennessee Valley, providing reliable and affordable electricity, managing the Tennessee River system, and stimulating economic growth;

Whereas the Tennessee Valley Authority provides more electricity than any other public utility in the Nation and has competitive rates and reliable transmission;

Whereas the Tennessee Valley Authority is expanding its environmental policy to increase its renewable energy sources, improve energy efficiency, and provide clean energy in the Tennessee Valley region;

Whereas the Tennessee Valley Authority continues to reduce power plant emissions and is working to further improve air quality for the health of individuals in the Tennessee Valley region;

Whereas the Tennessee Valley Authority is a leader in the nuclear power industry, with multi-site nuclear power operations that provide approximately 30 percent of the Tennessee Valley Authority's power supply;

Whereas, as part of NuStart Energy Consortium, the Tennessee Valley Authority submitted one of the first combined operating license applications for a new nuclear power plant in 30 years;

Whereas the Tennessee Valley Authority's integrated management of the Tennessee River system provides a wide range of benefits that include providing electrical power, reducing floods, facilitating freight transportation, improving water quality and supply, enhancing recreation, and protecting public land;

Whereas the Tennessee Valley Authority builds business and community partnerships that foster economic prosperity, helping companies and communities attract investments that bring good jobs to the Tennessee Valley region and keep them there; and

Whereas the Tennessee Valley Authority no longer receives appropriations to help fund its activities in navigation, flood control, environmental research, and land management, because the Tennessee Valley Authority pays for all its activities through power sales and issuing bonds: Now, therefore, be it

Resolved, That the Senate—

(1) commends the Tennessee Valley Authority on its 75th anniversary;

(2) recognizes the Tennessee Valley Authority for its long and proud history of service in the areas of energy, the environment, and economic development in a service area that includes 7 States;

(3) honors the accomplishments of the Board of Directors, retirees, staff, and supporters of the Tennessee Valley Authority who were instrumental during the Tennessee Valley Authority's first 75 years; and

(4) directs the Secretary of the Senate to transmit a copy of this resolution to the Chairman of the Board of the Tennessee Valley Authority, Bill Sansom, and the Chief Executive Officer of the Tennessee Valley Authority, Tom Kilgore, for appropriate display.

HONORING THE DETROIT RED WINGS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 593, submitted earlier today by Senator LEVIN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 593) honoring the Detroit Red Wings on winning the 2008 National Hockey League Stanley Cup Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LEVIN. Mr. President, I am delighted to submit this resolution today, along with my Michigan colleague, Senator STABENOW, congratulating the Detroit Red Wings on a

hard-fought victory over the Pittsburgh Penguins in the 2008 Stanley Cup finals. Last Wednesday night, the Red Wings captured Lord Stanley's Cup for the fourth time in 11 years, marking the 11th Stanley Cup Championship in the Red Wings' storied 81-year history.

The 2008 Championship was secured through grit, and the strength of team work. As Kris Draper said after the series clinching win, ''Once again, our resolve came through.'' This resolve, and the winning tradition that spans every level of the Red Wings organization, has been fostered over the years by the Ilitch family, whose commitment to winning championships and to the Detroit community are second to none.

The Red Wings season was defined by a physically dominating team that was able to control play at both ends of the ice. After winning three difficult playoff series on the road, the Red Wings followed up a heart-wrenching, triple-overtime loss at Joe Louis Arena in Detroit, with an equally epic 3–2 heart-stopping cup-clinching victory in Pittsburgh. Moments after cutting Detroit's lead in half with a power-play goal with just 1:27 remaining, Pittsburgh swiftly pushed the puck back deep into the Red Wings' zone. As time seemingly slowed, Red Wings fans tensely watched, hoping their team would be able to withstand this final onslaught. With the final seconds ticking away, a Pittsburgh player launched a backhander toward the goal, goalie Chris Osgood dove to the ice, stretching his pad to the post trying to block any rebound attempt. Another Penguin slapped at it, and almost unimaginably, the puck slithered all the way along the goal line, daring to throw the game into yet another overtime inferno. And with that, the horn sounded, giving Red Wings fans everywhere the sweet taste of victory. I immediately called my daughter Erica to share in her joy as a Red Wing fanatic. Knowing that for her, those last few seemed like an eternity.

This euphoria spilled out into the streets of Detroit last Friday, where over a million fans joined the Red Wings organization in celebration. Unfazed by the 92-degree heat, the Red Wings faithful flaunted their red and white, swelling with pride over victoriously navigating the difficult path to the cup.

Throughout the season, each member of the Red Wings organization worked tirelessly toward their ultimate goal to bring the Cup home to Hockeytown. The members of the 2008 Red Wings include Andrea Lilja, Kyle Quincey, Niklas Lidstrom, Justin Abdelkader, Dan Cleary, Pavel Datsyuk, Derek Meech, Dallas Drake, Kirk Maltby, Aaron Downey, Brett Lebda, Brad Stuart, Chris Chelios, Darren McCarty, Jiri Hudler, Brian Rafalski, Kris Draper, Mikael Samuelsson, Henrik Zetterberg, Mattias Ritola, Darren Helm, Mark Hartigan, Jakub Kindl, Valtteri Flippula, Jonathan Ericsson, Niklas Kronwall, Thomas Kopecky, Johan Franzen, Thomas Holmstrom, Chris Osgood, Jimmy Howard, Dominik Hasek, Head Coach Mike Babcock, and Assistant Coaches Paul McLean and Todd McLellan.

The Red Wings are one of the original six teams of the National Hockey League, and since their inception in 1926, have been a constant source of pride and inspiration for hockey fans throughout Michigan. The Red Wings have won the third most Stanley Cup Championships in the NHL, earning the distinction as one of the NHL's most successful franchises, and the most dominating over the past decade and a half. The Red Wings excellence, along with the undying love and support of the fans in Michigan and the enormous popularity of hockey in Michigan, make it clear why Detroit is widely known as Hockeytown, U.S.A.

Veterans such as Nicklas Lidstrom, Chris Chelios, Darren McCarty, Kris Draper and Kirk Maltby have remained integral figures on the ice and positive role models in the community for many years. Dearborn native Brian Rafalski, and Northern Michigan Alum Dallas Drake further deepen the team's Michigan roots. Drake returned this year to the team that drafted him and can now add a Stanley Cup championship to the one he earned as a member of the 1991 Northern Michigan University NCAA hockey championship team.

While this is first and foremost a team accomplishment, I would be remiss not to highlight a couple of individuals who contributed mightily to the team's overall success. Henrick Zetterberg, the Conn Smythe trophy winner, set a Red Wings playoff record with 27 points, including a remarkable six goal effort in the finals, the last of which proved to be the series clincher. In addition, Captain Nicklas Lidstrom, with his calm demeanor and unshakable nerve, became the first European born player to captain an NHL team to a Stanley Cup championship.

The Red Wings continue to set the standard for championship-caliber hockey and teamwork. From long-time members of the Red Wings organization, to veteran additions to the roster, to new, young talent that helped to energize the team, the 2008 team united and won in classic Red Wings fashion. In doing so, the Red Wings have once again taken hockey fans across the country on a tremendous journey.

Let the record reflect a symbolic gesture as if to throw an octopus onto the floor of the Senate. Go Wings! I know my colleagues join me in congratulating the players, owners, and fans of the Detroit Red Wings on capturing the Stanley Cup once again.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 593) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 593

Whereas, on June 4, 2008, the Detroit Red Wings defeated the Pittsburgh Penguins, 3 to 2 in game 6 of the National Hockey League Stanley Cup Finals;

Whereas that triumph marks the 11th Stanley Cup Championship in the history of the Red Wings, bringing the total number of Stanley Cup Championships won by the Red Wings to more than the number won by any other professional hockey team in the United States;

Whereas that triumph also marks the fourth Stanley Cup Championship for the Red Wings in 11 seasons, building on the team's reputation as one of the greatest dynasties in the history of the National Hockey League;

Whereas the championship win caps a historic season in which the Red Wings set a National Hockey League record for the most victories during the first half of the regular season (30–8–3), captured a seventh consecutive division title, earned a berth in the Stanley Cup playoffs for the 17th consecutive season, and won a sixth Presidents' Cup Trophy for the best regular season record in the National Hockey League;

Whereas, led by Captain Nicklas Lidstrom, the Red Wings, employing a combination of both youth and experience, became National Hockey League champions through pure grit and determination;

Whereas Nicklas Lidstrom, born in Västerås, Sweden, became the first European-born National Hockey League player to captain a Stanley Cup Championship team;

Whereas Henrik Zetterberg, through his hard work and skill on both ends of the ice, won the Conn Smythe Trophy for the most valuable player in the playoffs;

Whereas Nicklas Lidstrom, Kris Draper, Kirk Maltby, Tomas Holmstrom, and Darren McCarty have all been members of the team for the last 4 Stanley Cups won by the Red Wings, and Chris Osgood, Chris Chelios, and Brian Rafalski have each earned their third Stanley Cup Championship;

Whereas Marian and Mike Ilitch, the owners of the Red Wings and community leaders in Michigan, have once again returned Lord Stanley's Cup to the city of Detroit;

Whereas Red Wings head coach Mike Babcock, following in the footsteps of the great Scotty Bowman, has won his first Stanley Cup Championship;

Whereas the Red Wings, who have played in Detroit since 1926, continue to be prized and cherished by all Michiganders and Red Wing fans across the country;

Whereas, since 1952, Red Wings fans have continued the tradition of the ''Legend of the Octopus,'' throwing octopi onto the ice, each of the 8 tentacles symbolizing the original 8 games needed to win the Stanley Cup;

Whereas Detroit, otherwise known as ''Hockeytown, U.S.A.,'' is home to the most loyal fan base in the world;

Whereas the passion and support of all Red Wings fans have assisted the team through this long and difficult season, enabling the players to achieve the greatest prize in all of hockey, the Stanley Cup;

Whereas each Red Wings player made a valuable contribution to the team's success and will be remembered on the most illustrious sports trophy, the Stanley Cup; and

Whereas those Red Wings players are Chris Chelios, Dan Cleary, Pavel Datsyuk, Aaron Downey, Dallas Drake, Kris Draper, Jonathan Ericsson, Valtteri Filppula, Johan Franzen, Mark Hartigan, Dominik Hasek,

Tomas Holmstrom, Jimmy Howard, Jiri Hudler, Tomas Kopecky, Niklas Kronwall, Brett Lebda, Nicklas Lidstrom, Andreas Lilja, Justin Abdelkader, Kirk Maltby, Darren McCarty, Derek Meech, Chris Osgood, Kyle Quincey, Brian Rafalski, Mikael Samuelsson, Mattias Ritola, Darren Helm, Jakub Kindl, Brad Stuart, and Henrik Zetterberg: Now, therefore, be it

Resolved, That the Senate congratulates the Detroit Red Wings on winning the 2008 National Hockey League Stanley Cup Championship.

CELEBRATING 50TH ANNIVERSARY OF MACKINAC ISLAND'S HISTORIC PRESERVATION AND MUSEUM PROGRAM

Mr. DURBIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H. Con. Res. 325 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 325) celebrating the 50th Anniversary of the Mackinac Island State Park Commission's Historic Preservation and Museum Program, which began on June 15, 1958, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 325) was agreed to.

The preamble was agreed to.

MEASURE READ THE FIRST TIME—H.R. 5749

Mr. DURBIN. Mr. President, I understand H.R. 5749 has been received from the House and is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 5749) to provide for a program of emergency unemployment compensation.

Mr. DURBIN. Mr. President, I ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will receive its second reading on the next legislative day.

ORDER FOR MEASURE TO BE PLACED ON THE CALENDAR—H.R. 5749

Mr. DURBIN. Mr. President, notwithstanding an adjournment of the Senate on Friday, June 13, I ask unanimous consent that H.R. 5749 be considered to have received a second reading and objection made to further proceedings and the bill be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, JUNE 16, 2008

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 2 p.m. Monday, June 16; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business for up to 1 hour, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DURBIN. Mr. President, under a previous order, following morning business on Monday, the Senate will resume consideration of the motion to proceed to H.R. 6049, the Renewable Energy and Job Creation Act. At 5:30 p.m., the Senate will proceed to a cloture vote on the motion to proceed to the bill.

ADJOURNMENT UNTIL MONDAY, JUNE 16, 2008, AT 2 P.M.

Mr. DURBIN. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 7:49 p.m., adjourned until Monday, June 16, 2008, at 2 p.m.

NOMINATIONS

Executive nomination received by the Senate:

FEDERAL ELECTION COMMISSION

MATTHEW S. PETERSEN, OF UTAH, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2011, VICE HANS VON SPAKOVSKY.